COMMISSION
OF THE EUROPEAN
COMMUNITIES

Directorate-General XXI

Customs Union and Indirect Taxation

Directorate-General XV

Financial Institutions and Company Law

ACTS OF THE EUROPEAN COMMUNITIES

IN FORCE IN THE FIELD OF

TAXATION

VOLUME I

(YEARS 1964 - 1985)

. Opinion of the Commission of 3 June 1964
(64/406/EEC)
(O.J. of 13.7.1964, p.1800)

The text is not available in the english language

1500/65 OFFICIAL JOURNAL OF THE EUROPEAN COMMUNITIES 24.5.65

COUNCIL DECISION

of 13 May 1965

on the harmonisation of certain provisions affecting competition in transport by rail, road and inland waterway

(65/271/EEC)

THE COUNCIL OF THE EUROPEAN ECONOMIC COMMUNITY,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 75 and 99 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament[1];

Having regard to the Opinion of the Economic and Social Committee[2];

Whereas one of the objectives of the common transport policy must be to eliminate disparities liable to cause substantial distortion in competition in the transport sector; whereas it is accordingly necessary to take measures to harmonise or approximate certain laws, regulations and administrative provisions relating specifically to transport; whereas such measures must deal at Community level with relations between the different modes of transport and also, depending on the case, with relations within each mode of transport between the transport undertakings of the several Member States;

Whereas differences are particularly prevalent in the realms of taxation, of State intervention in transport and of social legislation;

Whereas measures should accordingly be taken:

— as regards taxation: to eliminate double taxation of motor vehicles; to standardise rules on the duty-free admission of fuel in the tanks of vehicles; to standardise the basis on which vehicle tax is calculated; to align the separate taxation systems for carriage of goods on own account and for carriage for hire or reward; and to make the provision of transport services subject to a future common system of turnover tax;

— as regards State intervention in transport: to reduce public service obligations to a minimum; to provide fair compensation for financial burdens resulting from those obligations which are maintained and from those involving reductions in rates on social grounds; to normalise the accounts of railway undertakings; to make such undertakings financially autonomous; and to lay down rules governing aids for transport, taking account of the distinctive features of that sector;

— as regards social legislation: to approximate provisions relating specifically to working conditions in transport so as to improve such provisions; to standardise manning provisions; to harmonise provisions concerning working and rest periods and overtime arrangements; and to introduce a record book by means of which it will be possible to check on an individual basis compliance with provisions concerning working periods;

Whereas it is necessary to settle now both the aims of this work of harmonisation and approximation and the pace at which it is to proceed, while provisions to give effect to it should in all cases be adopted sufficiently in advance of the date of their entry into force;

Whereas, finally, it must be possible for this Decision to be amended and supplemented as the establishment of the common market and the development of the common transport policy may require;

HAS ADOPTED THIS DECISION:

SECTION I

Taxation

Article 1

(a) With effect from 1 January 1967, double taxation of motor vehicles when such vehicles are being

[1] OJ No 81, 27.5.1964, p. 1279/64.
[2] OJ No 168, 27.10.1964, p. 2637/64.

used for carriage in a Member State other than that in which they are registered shall be abolished.

(b) With effect from 1 January 1967, the provisions regarding the duty-free admission of fuel contained in the fuel tanks of commercial motor vehicles and inland waterway vessels, shall be standardised.

Article 2

With effect from 1 January 1968, a uniform basis shall be adopted for the calculation of tax on goods vehicles and on cargo-carrying inland waterway vessels.

Article 3

1. Once a common system of turnover tax has been adopted by the Council and brought into force in the Member States, the taxation systems applied in the road and inland waterway sectors to, respectively, carriage of goods by transport undertakings and carriage of goods by other undertakings for their own requirements shall be aligned within each Member State in such a way as to make these systems equivalent in effect.

2. Member States shall forward to the Commission the drafts of provisions which they propose to adopt to achieve the aim set out in paragraph 1.

The Commission may within thirty days of receipt of such drafts address a recommendation or an opinion to the Member State concerned.

Article 4

Once a common system of turnover tax has been adopted by the Council and brought into force in the Member States, the latter shall apply that system in a manner to be determined, to the carriage of goods by rail, road and inland waterway.

By the date when the common system of turnover tax referred to in the preceding subparagraph has been brought into force, that system shall, in so far as the carriage of goods by road, by rail and by inland waterway is subject to specific taxes instead of to the turnover tax, replace such specific taxes.

SECTION II

Provisions concerning certain kinds of State intervention

Article 5

1. Obligations inherent in the concept of a public service imposed on transport undertakings may be maintained only in so far as is essential in order to ensure the provision of adequate transport services.

Member States shall pursue this aim by means of concerted action in accordance with common principles, which shall be laid down before 1 July 1967.

2. Compensation in respect of financial burdens devolving upon transport undertakings by reason of the maintenance of the obligations referred to in paragraph 1 shall be made in accordance with common procedures.

Article 6

From 1 July 1967, compensation, determined in accordance with common procedures, shall be paid in respect of financial burdens devolving upon transport undertakings by reason of the application to passenger transport of rates and conditions of transport imposed by a Member State in the interests of one or more particular categories of person.

Article 7

Before 1 January 1969, accounts of railway undertakings shall be normalised on the basis of common rules.

The compensation payments which such normalisation may entail shall be made by Member States with effect from the same date.

Article 8

From 1 January 1968, provisions governing the financial relations between railway undertakings and States shall be progressively harmonised.

Such harmonisation shall be directed at making such undertakings financially autonomous and shall be completed by 31 December 1972 at the latest.

Article 9

1. Before 1 Juli 1966, the Commission shall submit to the Council proposals for implementing the provisions of Article 77 of the Treaty.

2. Without prejudice to measures taken pursuant to this Decision, Articles 92 to 94 of the Treaty shall apply to transport by rail, road and inland waterway.

SECTION III

Social provisions

Article 10

1. From 1 January 1966, laws, regulations and administrative provisions relating specifically to work-

ing conditions in transport by rail, road and inland waterway shall, within each mode of transport, be approximated so as to improve such provisions, account being taken of any collective bargaining powers of the two sides of industry.

2. The approximation laid down in paragraph 1 shall be supplemented by like approximation of all laws, regulations and administrative provisions relating specifically to working conditions in the three modes of transport, account being taken of the differences in techniques employed and tasks performed.

3. For the purposes of this Article, working conditions shall not include wages or other forms of remuneration.

Article 11

From 1 January 1967, the manning provisions for each mode of transport shall be standardised on a Community basis.

Such standardisation shall be completed by 31 December 1968 at the latest.

Article 12

1. From 1 January 1967, provisions concerning working and rest periods in each mode of transport shall be harmonised.

2. From 1 January 1967, account being taken of the implementation of the provisions of paragraph 1 and of the collective bargaining powers of the two sides of industry, harmonisation of overtime arrangements shall be undertaken, with special reference to the basic hours beyond which time worked ranks as overtime and to the circumstances in which exceptions may be made.

3. The harmonisation prescribed by paragraphs 1 and 2 shall be completed by 31 December 1968 at the latest.

Article 13

With effect from 1 January 1967 for road transport and with effect from 1 July 1967 for transport by inland waterway, a record book shall be introduced, by means of which it shall be possible to check on an individual basis compliance with provisions concerning working periods.

SECTION IV

Final provisions

Article 14

Measures required to give effect to this Decision shall, with the exception of Articles 3 and 9 (2), be adopted by the Council by not later than six months before the date when such measures are to enter into force. Notwithstanding the foregoing, measures required to give effect to Article 7 shall be adopted by the Council by not later than one year before the date when they are to enter into force.

The Council shall adopt the said measures on the basis of Article 75 of the Treaty and, as regards Articles 1, 2 and 4 in particular, on the basis of Articles 75 and 99 of the Treaty.

Article 15

Two years after the entry into force of this Decision and every two years thereafter, the Commission shall present to the Council a report on the implementation of this Decision and shall make proposals to amend or supplement it as the establishment of the common market and the development of the common transport policy may require.

Article 16

This Decision is addressed to the Member States.

Done at Brussels, 13 May 1965.

For the Council

The President

M. COUVE DE MURVILLE

. Recommendation of the Commission of 9 February 1966
(66/119/EEC) (366X0119)
(O.J. No 28 of 27.2.1966, p. 436)

The text is not available in the english language

14.4.67 OFFICIAL JOURNAL OF THE EUROPEAN COMMUNITIES 1301/67

FIRST COUNCIL DIRECTIVE

of 11 April 1967

on the harmonisation of legislation of Member States concerning turnover taxes

(67/227/EEC)

THE COUNCIL OF THE EUROPEAN ECONOMIC COMMUNITY,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament;

Having regard to the Opinion of the Economic and Social Committee;

Whereas the main objective of the Treaty is to establish, within the framework of an economic union, a common market within which there is healthy competition and whose characteristics are similar to those of a domestic market;

Whereas the attainment of this objective presupposes the prior application in Member States of legislation concerning turnover taxes such as will not distort conditions of competition or hinder the free movement of goods and services within the common market;

Whereas the legislation at present in force does not meet these requirements; whereas it is therefore in the interest of the commom market to achieve such harmonisation of legislation concerning turnover taxes as will eliminate, as far as possible, factors which may distort conditions of competition, whether at national or Community level, and make it possible subsequently to achieve the aim of abolishing the imposition of tax on importation and the remission of tax on exportation in trade between Member States;

Whereas, in the light of the studies made, it has become clear that such harmonisation must result in the abolition of cumulative multi-stage taxes and in the adoption by all Member States of a common system of value added tax;

Whereas a system of value added tax achieves the highest degree of simplicity and of neutrality when the tax is levied in as general a manner as possible and when its scope covers all stages of production and distribution and the provision of services; whereas it is therefore in the interest of the common market and of Member States to adopt a common system which shall also apply to the retail trade;

Whereas, however, the application of that tax to retail trade might in some Member States meet with practical and political difficulties; whereas, therefore, Member States should be permitted, subject to prior consultation, to apply the commom system only up to and including the wholesale trade stage, and to apply, as appropriate, a separate complementary tax at the retail trade stage, or at the preceding stage;

Whereas it is necessary to proceed by stages, since the harmonisation of turnover taxes will lead in Member States to substantial alterations in tax structure and will have appreciable consequences in the budgetary, economic and social fields;

Whereas the replacement of the cumulative multi-stage tax systems in force in the majority of Member States by the common system of value added tax is bound, even if the rates and exemptions are not harmonised at the same time, to result in neutrality in competition, in that within each country similar goods bear the same tax burden, whatever the length of the production and distribution chain, and that in international trade the amount of the tax burden borne by goods is known so that an exact equalisation of that amount may be ensured; whereas therefore, provision should be made, in the first stage, for adoption by all Member States of the common system of value added tax, without an

accompanying harmonisation of rates and exemptions;

Whereas it is not possible to foresee at present how and within what period the harmonisation of turnover taxes can achieve the aim of abolishing the imposition of tax on importation and the remission of tax on exportation in trade between Member States; whereas it is therefore preferable that the second stage and the measures to be taken in respect of that stage should be determined later on the basis of proposals made by the Commission to the Council;

HAS ADOPTED THIS DIRECTIVE:

Article 1

Member States shall replace their present system of turnover taxes by the common system of value added tax defined in Article 2.

In each Member State the legislation to effect this replacement shall be enacted as rapidly as possible, so that it can enter into force on a date to be fixed by the Member State in the light of the conjunctural situation; this date shall not be later than 1 January 1970.

From the entry into force of such legislation, the Member State shall not maintain or introduce any measure providing for flat-rate equalisation of turnover taxes on importation or exportation in trade between Member States.

Article 2

The principle of the common system of value added tax involves the application to goods and services of a general tax on consumption exactly proportional to the price of the goods and services, whatever the number of transactions which take place in the production and distribution process before the stage at which tax is charged.

On each transaction, value added tax, calculated on the price of the goods or services at the rate applicable to such goods or services, shall be chargeable after deduction of the amount of value added tax borne directly by the various cost components.

The commom system of value added tax shall be applied up to and including the retail trade stage.

However, until the abolition of the imposition of tax on importation and the remission of tax on exportation in trade between Member States, Member States may, subject to the consultation provided for in Article 5, apply this system only up to and including the wholesale trade stage, and may apply, as appropriate, a separate complementary tax at the retail trade stage or at the preceding stage.

Article 3

The Council shall issue, on a proposal from the Commission, a second Directive concerning the structure of, and the procedure for applying, the common system of value added tax.

Article 4

In order to enable the Council to discuss this, and if possible to take decisions before the end of the transitional period, the Commission shall submit to the Council, before the end of 1968, proposals as to how and within what period the harmonisation of turnover taxes can achieve the aim of abolishing the imposition of tax on importation and the remission of tax on exportation in trade between Member States, while ensuring the neutrality of those taxes as regards the origin of the goods or services.

In this connection, particular account shall be taken of the relationship between direct and indirect taxes, which differs in the various Member States; of the effects of an alteration in tax systems on the tax and budget policy of Member States; and of the influence which tax systems have on conditions of competition and on social conditions in the Community.

Article 5

Should a Member State intend to exercise the power provided for in the last paragraph of Article 2, it shall so inform the Commission in good time, having regard to Article 102 of the Treaty.

Article 6

This Directive is addressed to the Member States.

Done at Brussels, 11 April 1967.

For the Council

The President

R. VAN ELSLANDE

SECOND COUNCIL DIRECTIVE

of 11 April 1967

on the harmonisation of legislation of Member States concerning turnover taxes Structure and procedures for application of the common system of value added tax

(67/228/EEC)

THE COUNCIL OF THE EUROPEAN ECONOMIC COMMUNITY,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof;

Having regard to the First Council Directive of 11 April 1967[1] on the harmonisation of legislation of Member States concerning turnover taxes;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament;

Having regard to the Opinion of the Economic and Social Committee;

Whereas the replacement of the turnover taxes in force in Member States by a common system of value added tax is intended as a means of attaining the objectives set out in the First Directive;

Whereas, until the abolition of the imposition of tax on importation and the remission of tax on exportation, it is possible to grant Member States substantial autonomy in determining the rate or differential rates of tax;

Whereas it is also possible to accept on a transitional basis certain differences in the procedure for applying the tax in Member States; whereas it is, however, necessary to make provision for appropriate procedures to ensure neutrality in competition between Member States and to restrict progressively or to abolish the differences in question, so that national systems of value added tax may be brought into alignment, thereby preparing the way for the attainment of the objective set out in Article 4 of the First Directive;

Whereas, in order to enable the system to be applied in a simple and neutral manner, and to keep the standard rate of tax within reasonable limits, it is necessary to limit special systems and exceptional measures;

Whereas the system of value added tax makes it possible, where appropriate, for social and economic reasons, to effect reductions or increases in the tax burden on certain goods and services by means of a differentiation in the rates, but the introduction of zero rates gives rise to difficulties, so that it is highly desirable to limit strictly the number of exemptions and to make the reductions considered necessary by applying reduced rates which are high enough to permit in normal circumstances the deduction of the tax paid at the preceding stage, which moreover achieves in general the same result as that at present obtained by the application of exemptions in cumulative multi-stage systems;

Whereas it has proved possible to leave Member States themselves to make rules concerning the numerous services whose cost has no influence on the prices of goods, and the systems to be applied in the case of small undertakings, subject, as regards the latter, to prior consultation;

Whereas it has proved necessary to provide for special systems for the application of the value added tax to the agricultural sector and to request the Commission to submit to the Council, as soon as possible proposals to this effect;

Whereas it is necessary to provide for a rather large number of special provisions covering interpretation, derogations and certain detailed application procedures, and to establish a list of the services com-

[1] OJ No 71, 14.4.1967, p. 1301.

pulsorily subject to the common system; and whereas these provisions and this list should appear in the Annexes forming an integral part of this Directive;

HAS ADOPTED THIS DIRECTIVE:

Article 1

Member States shall introduce, in accordance with a common system, a tax on turnover (hereinafter called 'value added tax').

The structure of, and procedures for applying this tax shall be established by Member States in accordance with the provisions of the following Articles and of Annexes A and B.

Article 2

The following shall be subject to the value added tax:

(a) The supply of goods and the provision of services within the territory of the country by a taxable person against payment;

(b) the importation of goods.

Article 3

'Territory of the country' means the territory in which the State concerned applies the value added tax; this territory shall, as a general rule, include the whole of the national territory, including territorial waters.

Article 4

'Taxable person' means any person who independently and habitually engages in transactions pertaining to the activities of producers, traders or persons providing services, whether or not for gain.

Article 5

1. 'Supply of goods' means the transfer of the right to dispose of tangible property as owner.

2. The following shall also be considered as supply within the meaning of paragraph 1:

(a) the actual handing over of goods, under a contract which provides for the hiring of goods for a certain period, or the sale on deferred terms of goods, in both cases subject to a clause to the effect that ownership shall pass at the latest upon payment of the final instalment due;

(b) the transfer, by order of a public authority, of ownership in goods against payment of compensation;

(c) the transfer of goods pursuant to a contract under which commission is payable on purchase or sale;

(d) the delivery of moveable property produced under a contract for work, that is to say the handing over by a contractor to his customer of moveable property which he has made from materials and objects entrusted to him by the customer for this purpose, whether or not the contractor has provided a part of the products used;

(e) the delivery up of works of construction, including those in which moveable property is incorporated in immoveable property.

3. The following shall be treated as supply against payment:

(a) the appropriation by a taxable person, from his undertaking, of goods which he applies to his own private use or transfers free of charge;

(b) the use for the needs of his undertaking, by a taxable person, of goods produced or extracted by him or by another person on his behalf.

4. The place of supply shall be deemed as being:

(a) in cases where the goods are dispatched or transported either by the supplier or by the consignee, or by a third person: the place where the goods were at the time when the dispatch or transport to the consignee began;

(b) in cases where the goods are not dispatched or transported: the place where the goods were at the time of supply.

5. The chargeable event shall occur at the moment when delivery is effected. In the case, however, of supply involving payments on account before delivery, it may be provided that the chargeable event shall already have occurred at the moment of issue of the invoice or, at the latest, at the moment of receipt of the payment, in respect of the whole of the amount invoiced or received.

Article 6

1. 'Provision of services' means any transaction which does not constitute a supply of goods within the meaning of Article 5.

2. The rules laid down in this Directive as regards the taxation of the provision of services shall be compulsorily applicable only to services listed in Annex B.

3. The place of the provision of service shall, as a general rule, be regarded as being the place where the services provided, the right transferred or granted, or the object hired, is used or enjoyed.

4. The chargeable event shall occur at the moment when the service is provided. In the case, however, of the provision of services of indeterminate length or exceeding a certain period or involving payments on account, it may be provided that the chargeable event shall already have occurred at the moment of issue of the invoice or, at the latest, at the moment of the receipt of the payment on account, in respect of the whole of the amount invoiced or received.

Article 7

1. 'Importation of goods' means the entry of such goods into the 'territory of the country' within the meaning of Article 3.

2. At importation, the chargeable event shall occur at the time of such entry. Member States may, however, link the chargeable event and the date when payment of value added tax falls due with the chargeable event and the date when payment of customs duties or other import taxes, charges and levies falls due.

The same link may be established, as regards the chargeable event and the date when payment of value added tax falls due, in respect of the supply of imported goods placed under a system of suspension of customs duties or other taxes, charges or levies.

Article 8

The basis of assessment shall be:

(a) in the case of supply of goods and of the provision of services, everything which makes up the consideration for the supply of the goods or the provision of services, including all expenses and taxes except the value added tax itself;

(b) in the case of the transactions referred to in Article 5 (3) (a) and (b), the purchase price of the goods or of like goods or, if there is no purchase price, the cost price;

(c) in the case of importation of goods, the customs value, plus all duties, taxes, charges and levies due by reason of importation, except the value added tax itself. The same basis of assessment shall apply when the goods are exempt from customs duties or are not subject to *ad valorem* customs duties.

In the case of importation of goods, each Member State may add to the basis of assessment the incidental expenses (packing, transport, insurance, etc.) arising up to the place of destination which have not been included in that basis.

Article 9

1. The standard rate of value added tax shall be fixed by each Member State at a percentage of the basis of assessment which shall be the same for the supply of goods and for the provision of services.

2. In certain cases, the supply of goods and the provision of services may, however, be subject to increased rates or to reduced rates. Each reduced rate shall be determined in such a manner that the amount of value added tax resulting from the application of this rate shall normally permit the deduction of the whole of the value added tax which is deductible under Article 11.

3. The rate applicable to importation of goods shall be that which is applied in the territory of the country to the supply of like goods.

Article 10

1. The following shall be exempted from value added tax on conditions laid down by each Member State:

(a) the supply of goods consigned or transported to places outside the territory in which the State concerned applies value added tax;

(b) the provision of services relating to goods covered by (a) or in transit.

2. The provision of services relating to importations of goods may, subject to the consultations mentioned in Article 16, be exempted from value added tax.

3. Each Member State may, subject to the consultations mentioned in Article 16, determine the other exemptions which it considers necessary.

Article 11

1. Where goods and services are used for the purposes of his undertaking, the taxable person shall be authorised to deduct from the tax for which he is liable:

(a) the value added tax invoiced to him in respect of goods supplied to him or in respect of services rendered to him;

(b) the value added tax paid in respect of imported goods;

(c) the value added tax which he has paid in respect of the use of goods referred to in Article 5 (3) (b).

2. Value added tax on goods and services used in non-taxable or exempt transactions shall not be deductible.

The taxable person shall however be authorised to make the deduction if the supply of goods or the provision of services takes place abroad or is exempt under Article 10 (1) or (2).

As regards goods and services which are used both in transactions giving entitlement to deduction and in transactions which do not give entitlement to deduction, deduction shall only be allowed for that part of the value added tax which is proportional to the amount relating to the transactions giving entitlement to deduction *(pro rata rule)*.

3. The deduction shall be made from the value added tax due for the period during which deductible tax is invoiced in the case of paragraph 1 (a) or paid in the case of paragraph 1 (b) and (c) (immediate deductions).

In the case of a partial deduction under paragraph 2 the amount of the deduction shall be provisionally determined in accordance with criteria established by each Member State and finally adjusted after the end of the year when the *pro rata* figure for the year of acquisition has been calculated.

As regards capital goods, the adjustment shall be effected on the basis of the variations of the *pro rata* figure which have occurred during a period of five years including the year during which the goods were acquired; the adjustment shall apply each year to only one-fifth of the tax borne by capital goods.

4. Certain goods and services may be excluded from the deduction system, in particular those capable of being exclusively or partially used for the private needs of the taxable person or of his staff.

Article 12

1. Every taxable person shall keep sufficiently detailed accounts to permit application of the value added tax and inspection by the tax authorities.

2. Every taxable person shall issue an invoice in respect of goods supplied and services provided by him to another taxable person.

3. Every taxable person shall each month lodge a declaration showing, in respect of transactions carried out during the preceding month, all the information required to calculate the tax and the deductions to be made. Every taxable person shall pay the amount of the value added tax when lodging the declaration.

Article 13

Should a Member State consider that, in exceptional cases, special measures should be adopted in order to simplify the charging procedure in respect of the tax or to prevent certain frauds, it shall so inform the Commission and the other Member States.

Should there, within one month, be objections from one or more States or from the Commission, the request for derogation shall be brought before the Council, which shall act on a proposal from the Commission within three months.

Should it appear from the conclusion of the Commission that only a simplification of the charging procedure or a measure designed to prevent fraud is involved, the Council shall act by a qualified majority on the derogation requested.

Should it appear, on the contrary, from those conclusions that the proposed measure might be prejudicial to the very principles of the system introduced by this Directive, and in particular to neutrality in competition between Member States, the Council shall act unanimously.

In either case, the Council shall act in accordance with the same procedure as regards the period of application of such measures.

The State concerned may not apply the proposed measures until the period for entering objections has expired or, where there have been objections, until after the Council's decision, if such decision is favourable.

These provisions shall cease to be applicable when the imposition of tax on importation and the remission of tax on exportation are abolished in trade between Member States.

Article 14

Each Member State may, subject to the consultations mentioned in Article 16, apply to small undertakings

whose subjection to the normal system of value added tax would meet with difficulties the special system best suited to national requirements and possibilities.

Article 15

1. The Commission shall submit to the Council, as soon as possible, proposals for Directives on common procedures for applying value added tax to transactions relating to agricultural products.

2. Until the date fixed in the Directive referred to in paragraph 1 for the application of such common procedures, each Member State may, subject to the consultations mentioned in Article 16, apply to undertakings in the agricultural sector whose subjection to the normal system of value added tax would meet with difficulties the special system best suited to national requirements and possibilities.

Article 16

Where a Member State must, in accordance with the provisions of this Directive, enter into consultations, it shall refer the matter to the Commission in good time, having regard to the application of Article 102 of the Treaty.

Article 17

With a view to the transition from the present systems of turnover taxes to the common system of value added tax, Member States may:

— adopt transitional measures to levy the tax in advance;

— apply, during a certain transitional period, in respect of capital goods, the method of deduction by annual instalments (deductions *pro rata temporis);*

— exclude, in whole or in part, during a certain transitional period, capital goods from the deduction system provided for in Article 11;

and, subject to the consultations mentioned in Article 16:

— authorise (in order to grant relief, total or partial, but general in scope, from the turnover tax charged up to the time of introducing value added tax) standard deductions in respect of capital goods not yet written off and of stocks in hand at that time. Member States may, however, restrict such deductions to goods exported during a period of one year from the introduction of value added tax. In that event, such deductions shall only be allowed in respect of stocks in hand at the time referred to above and exported in an unaltered state;

— provide for reduced rates or even exemptions with refund, if appropriate, of the tax paid at the preceding stage, where the total incidence of such measures does not exceed that of the reliefs applied under the present system. Such measures may only be taken for clearly defined social reasons and for the benefit of the final consumer, and may not remain in force after the abolition of the imposition of tax on importation and the remission of tax on exportation in trade between Member States.

Article 18

The Commission shall, after consulting the Member States, submit to the Council, for the first time on 1 January 1972 and every two years thereafter, a report on the operation of the common system of value added tax in Member States.

Article 19

The Council shall, in the interest of the common market, adopt at the proper time, on a proposal from the Commission, the appropriate Directives to complete the common system of value added tax, and in particular to restrict progressively or to abolish measures adopted by Member States in derogation from this system, so that national systems of value added tax may be brought into alignment, thereby preparing the way for the attainment of the objective set out in Article 4 of the First Directive.

Article 20

The Annexes shall form an integral part of this Directive.

Article 21

This Directive is addressed to the Member States.

Done at Brussels, 11 April 1967.

For the Council

The President

R. VAN ELSLANDE

ANNEX A

1. *Regarding Article 3*

If a Member State intends to apply value added tax in a territory smaller than its national territory, it shall enter into the consultations mentioned in Article 16.

2. *Regarding Article 4*

The expression 'activities of producers, traders, or persons providing services' is to be understood in a wide sense and to cover all economic activities, including, therefore, activities of the extractive industries, agriculture and the professions.

If a Member State intends not to tax certain activities, it should achieve its purpose by means of exemptions rather than by excluding from the scope of the tax persons pursuing such activities.

Member States may also consider as a 'taxable person' anyone who engages occasionally in the transactions referred to in Article 4.

The expression 'independently' is intended in particular to exclude from taxation wage-earners who are bound to their employer by a contract of service. This expression also makes it possible for each Member State not to consider as separate taxable persons, but as one single taxable person, persons who, although independent from the legal point of view, are, however, organically linked to one another by economic, financial or organisational relationships. Any Member State intending to adopt such a system shall enter into the consultations mentioned in Article 16.

States, regional and local government bodies and other public corporate bodies shall not as a general rule be considered as taxable persons in respect of activities which they pursue in their official capacity as official authorities.

If, however, they pursue activities as producers, traders, or providers of services, they may be considered as liable to tax in respect of such activities.

3. *Regarding Article 5 (1)*

'Tangible property' means both moveable and immoveable tangible property.

The supply of electric current, gas, heat, refrigeration and the like shall be considered as supply of goods.

In case of contribution to a company of the whole or part of the contributor's assets, Member States may regard the benefiting company as the successor in title of the contributor.

4. *Regarding Article 5 (2) (a)*

For the purposes of this Directive, the contract referred to in Article 5 (2) (a) must not be subdivided into part hire and part sale, but shall be regarded, as soon as concluded, as a contract involving a taxable supply.

5. *Regarding Article 5 (2) (d) and (e)*

Member States which, for specifically national reasons, cannot consider the transactions referred to in Article 5 (2) (d) and (e) as supply shall classify them in the category of provision of services, subjecting them to the rate which would be applicable to them if they were considered as supply.

The following, *inter alia*, shall be considered as 'works of construction':

— the construction of buildings, bridges, roads, ports, etc., in performance of a building contract;

— earth-moving and planting of gardens;

— installation work (of central heating, for example);

— repairs to buildings, other than current maintenance.

6. *Regarding Article 5 (3) (a)*

As regards the appropriation of goods in an unaltered state bought by a taxable person, Member States may, instead of taxing, forbid deduction or adjust it if deduction has already been effected. However, appropriation for giving gifts of small value and samples, which from the tax point of view may be classified as overhead expenses, shall not be considered as taxable supply. Moreover, the provisions of Article 11 (2) shall not be applicable to such appropriations.

7. *Regarding Article 5 (3) (b)*

This provision shall only be applied to ensure equality of taxation between, on the one hand, goods purchased and intended for the needs of the undertaking, and in respect of which there is no entitlement to immediate or complete deduction, and, on the other hand, goods produced or extracted by the taxable person or on his behalf by a third person which are also used for the same needs.

8. *Regarding Article 5 (5)*

The 'chargeable event' means the event giving rise to the tax.

9. *Regarding Article 6 (1)*

The definition of provision of services given in this paragraph involves classification of, *inter alia*, the following as provision of services:

— the assignment of intangible property;

— the carrying out of an obligation to refrain from doing something;

— the carrying out of a service rendered by order of a public authority;

— the carrying out of work on goods, if such work is not considered as supply within the meaning of Article 5 (2) (d) and (e) as, for example, current maintenance work, the laundering of linen, etc.

This definition shall not prevent taxation by Member States of certain transactions engaged in by a taxable person as services 'rendered to oneself' when such a measure proves necessary in order to avoid distortion of competition.

10. *Regarding Article 6 (2)*

Member States shall refrain, as far as possible, from granting exemption from tax in respect of the provision of the services listed in Annex B.

11. *Regarding Article 6 (3)*

The Council shall, acting unanimously on a proposal from the Commission, lay down, before 1 January 1970, special rules concerning certain services for which such rules may prove necessary, derogating where appropriate from the provisions of Article 6 (3). Until those rules have been laid down, each Member State may, in order to simplify the procedure for charging the tax, derogate from the provisions of Article 6 (3); it shall, however, take the necessary steps to avoid double taxation or non-taxation.

12. *Regarding Article 8*

Any Member State which applies value added tax only up to and including the wholesale stage may, in the case of goods sold by retail by a taxable person, reduce the basis of assessment by a certain percentage; the basis thus reduced shall not, however, be lower than the purchase or cost price plus, where appropriate, the amount of the customs duties (including levies), taxes and charges on the goods (except value added tax), even if payment thereof has been suspended.

In the case of importation of goods sold by retail, the same reduction shall be applied to the basis of assessment.

It shall be left to Member States to define, in accordance with their national concepts, the concept of 'sale of goods by retail'.

Each Member State may, subject to the consultations mentioned in Article 16, law down, as a measure to prevent fraud and in respect of specified goods and services, that, in derogation from Article 8, the basis of assessment shall not be lower than a minimum basis determined by its national law.

13. *Regarding Article 8 (a)*

The expression 'consideration' means everything received in return for the supply of goods or the provision of services, including incidental expenses (packing, transport, insurance, etc.) that is to say not only the cash amounts charged, but also, for example, the value of the goods received in exchange or, in the case of goods or services supplied by order of a public authority, the amount of the compensation received.

This provision shall not, however, prevent each Member State which considers it necessary for the achievement of greater neutrality in competition from being able to exclude from the basis of assessment in respect of supply the incidental expenses arising as from the place of supply as defined in Article 5 (4) and to tax such expenses as consideration for the provision of services.

Further, the expenses paid in the name and for the account of the customer which are shown in the accounts of the supplier as transitory items shall not be included in the basis of assessment.

The customs duties and other charges, taxes, etc., paid at importation by agents and other intermediaries in customs clearance including forwarding agents, under their own name, may also be excluded from the basis of assessment corresponding to the services they have provided.

14. *Regarding Article 8 (c)*

In intra-Community trade, Member States shall endeavour to apply to importations of goods a basis of assessment which corresponds, as far as possible, to that used for supply made within the territory of the country; this basis shall include the same components as those taken into account pursuant to Article 8 (c).

Until the abolition of the imposition of tax on importation and the remission of tax on exportation in trade between Member States at the latest, and subject to the consultations mentioned in Article 16, each Member State may apply to importations of goods from third countries a basis of assessment which corresponds, as far as possible, to that used for supply within the territory of the country; this basis shall include the same components as those taken into account pursuant to Article 8 (c).

15. *Regarding Article 9 (2)*

Where this paragraph is applied to the transport services referred to in Annex B, item 5, it must be so applied as to ensure equality of treatment as between the different modes of transport.

16. *Regarding Article 10 (1) (a)*

Relief from tax as provided for in this provision refers to the supply of goods directly exported, that is to say supply made by the exporter. Member States may, however, extend exemption to supply made at the preceding stage.

17. *Regarding Article 10 (1) (b)*

Member States may, however, refrain from granting this exemption if relief from the value added tax charged on the provision of these services is effected in favour of the beneficiary of the services by means of deductions. Moreover, Member States may, except in the case of the provision of services relating to goods in transit, restrict such exemption to the provision of services relating to goods the supply of which inside the country is taxable.

18. *Regarding Article 10 (2)*

This provision relates in particular to the provision of international transport services at importation and to port services.

19. *Regarding Article 10 (2) and (3)*

Where these paragraphs are applied to the transport services referred to in Annex B, item 5, they must be so applied as to ensure equality of treatment as between the different modes of transport.

20. *Regarding Article 11 (1) (a)*

In the cases provided for in Article 5 (5), second sentence, and Article 6 (4), second sentence, the deductions may be made as soon as the invoice is received, even though the goods have not yet been supplied or the services rendered.

21. *Regarding Article 11 (2), second subparagraph*

Member States may, however, restrict the right to deduction to transactions relating to goods the supply of which inside the country is taxable.

22. *Regarding Article 11 (2), third subparagraph*

The *pro rata* figure shall, in general, be determined in respect of all the transactions carried out by the taxable person (general *pro rata* figure). However, a taxable person may, exceptionally, obtain administrative permission to determine special *pro rata* figures for certain sectors of his activities.

23. *Regarding Article 11 (3), first subparagraph*

Subject to the consultations mentioned in Article 16, each Member State may, on conjunctural grounds, partially or wholly exclude capital goods from the deduction system, or apply in respect of such goods, instead of the method of immediate deductions, that of annual instalments (deductions *pro rata temporis).*

24. *Regarding Article 11 (3), third subparagraph*

Member States may specify certain tolerances in order to limit the number of adjustments in the event of variations in the annual *pro rata* figure as compared with the initial *pro rata* figure which served as a basis for deductions in the case of capital goods.

25. *Regarding Article 12 (2)*

The invoice must show separately the price exclusive of tax and the corresponding tax for each different rate, together with any exemption.

Each Member State may, in special cases, provide for derogations from this rule and also from the obligation laid down in Article 12 (2). Such derogations, however, must be strictly limited.

Notwithstanding the other measures to be taken by Member States to ensure payment of the tax and to prevent fraud, all persons, whether taxable or not, who show the value added tax on an invoice, must pay the amount thereof.

26. *Regarding Article 12 (3)*

Each Member State may, for practical reasons, shorten the period laid down in Article 12 (3) or authorise certain taxable persons to lodge the declaration quarterly, half-yearly or annually.

During the first six months of each year, the taxable person shall, where appropriate, lodge a declaration concerning all the previous years's transactions, and including all the particulars necessary for any adjustments.

Each Member State shall, as regards importation of goods, adopt measures governing the procedure in respect of the declaration and of the payment which must ensue.

27. *Regarding Article 14*

Where this Article is applied to the transport services referred to in Annex B, item 5, it must be so applied as to ensure equality of treatment as between the different modes of transport.

28. *Regarding Article 17, fourth indent*

Stocks may be valued *inter alia* by reference to the transactions carried out during preceding years by the taxable persons.

ANNEX B

List of the services referred to in Article 6 (2):

1. assignments of patents, trade marks and other similar rights, and the granting of licences in respect of such rights;
2. work, other than that referred to in Article 5 (2) (d), on tangible moveable property, carried out for a taxable person;
3. provision of services to prepare or co-ordinate the carrying out of works of construction, as, for example, services provided by architects and by firms providing on-site supervision of works;
4. commercial advertising services;
5. transport and storage of goods, and ancillary services;
6. hiring of tangible moveable property to a taxable person;
7. provision of staff to a taxable person;
8. services provided by consultants, engineers, planning offices and similar services, in scientific, economic or technical fields;
9. the carrying out of an obligation to refrain from exercising, in whole or in part, a business activity or a right included in this list;
10. the services of forwarding agents, brokers, business agents and other independent intermediaries, in so far as they relate to supply or importation of goods or the provision of services included in this list.

. Recommendations of the Commission of 16 November 1967
(67/730/EEC) (367X0730)
(O.J. No 293 of 2.12.1967, p. 7)

The text is not available in the english language

. Recommendation of the Commission of 20 December 1967
(68/41/EEC) (368X0041)
(O.J. No L 18 of 22.1.1968, p. 12)

The text is not available in the english language

. Recommendation of the Commission of 31 January 1968
(68/96/EEC) (368X0096)
(O.J. No L 35 of 8.2.1968, p. 14)

The text is not available in the english language

No L 115/14 Official Journal of the European Communities 18.5.68

COUNCIL DIRECTIVE

of 30 April 1968

on a common method for calculating the average rates provided for in Article 97 of the Treaty

(68/221/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof;

Having regard to the Decision of 21 June 1960 of the Representatives of the Governments of the Member States meeting in the Council;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament[1];

Having regard to the Opinion of the Economic and Social Committee[2];

Whereas, since the Treaty entered into force, the fixing of the average rates provided for in Article 97 of the Treaty to offset the burden of turnover taxes levied in accordance with the cumulative multi-stage tax system has constantly given rise to difficulties which interfere with the proper functioning of the common market; whereas such adverse effects increase with the elimination of customs duties in the Community;

Whereas the sole purpose of any future alignment of compensatory charges and refunds should be to ensure that existing cumulative multi-stage turnover tax systems are more neutral in their impact on international trade and enable the changeover to the common value added tax system to be made in the best possible conditions; whereas such alignments are therefore in accordance with the criteria recognised in the Decision of 21 June 1960 of the Representatives of the Governments of the Member States meeting in the Council;

Whereas the difficulties mentioned above result mainly from differences between the methods used by the Member States for calculating these rates;

Whereas it is therefore in the interest of the common market that, until the value added tax is introduced in all Member States, these different methods of calculation should be harmonised by the adoption of common and reasonable rules which ensure observance of the limits set by Article 97 of the Treaty and make it possible to keep under review the average rates thus obtained;

Whereas, in order to take into account as far as possible the actual conditions in which a product or group of products is produced, such rules must provide for weighting of the tax burdens;

Whereas such rules must leave open to Member States the possibility of resorting to certain flat-rate estimates;

Whereas the Commission should be authorised to lay down, by directives adopted after consulting Member States, the procedure for applying the common method of calculation;

Whereas, in order to make it easier for the Commission to ensure observance of the limits set for the average rates, it should be provided that the Member States must submit to the Commission, on their own initiative, calculations based on the common method before introducing or altering an average rate in any way;

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. Where, pursuant to Article 97 of the Treaty, a Member State introduces or alters an average rate in order to offset, with respect both to imports and to exports, the turnover tax which is directly or indirectly imposed on the manufacture of a product or group of products, that rate shall be calculated in

[1] OJ No C 10, 14.2.1968, p. 4.
[2] OJ No. 317, 28.12.1967, p. 9.

accordance with the provisions of this Directive, in the light of the actual conditions of production.

2. This Directive shall not apply to:

— average rates existing when this Directive enters into force, even if used for calculating previous tax burdens in accordance with the provisions of Article 6;

— adaptations of the average rates arising solely from a general change of the rate of turnover tax.

Article 2

1. The average tax burden on a product shall be equal to the weighted average of the tax burdens on that product at the different representative stages of production established for each stage in accordance with Articles 3 to 6. The weighted average shall be based on the importance of each stage in relation to the total production of the product.

2. The average tax burden on a group of products shall be equal to the weighted average of the average tax burdens on representative products for that group. The size of the group of products shall determine the number of representative products to be taken into account. For each representative product the average tax burden shall be calculated in accordance with the provisions of paragraph 1. The weighted average shall be based on the importance of the representative products in relation to the total production of the group of products.

Article 3

For purposes of calculating the tax burdens on a product at the final stage of production, the tax burdens on all factors in the cost price at that stage may be taken into account.

Article 4

1. For purposes of calculating the tax burden on a product at the penultimate stage, account may be taken of the burdens imposed at that stage on those raw materials, semi-finished products and finished products which are used in raw materials, semi-finished products or finished products taken into account at the final stage, or in any other factor or component taken into account at the final stage, if it represents at that stage not less than 3% of the selling price of the final product before tax.

2. For purposes of calculating the tax burden on a product at the other stages, account may be taken of the burdens imposed at each of these stages on those raw materials, semi-finished products and finished products which are intended for the manufacture of a raw material, semi-finished product or finished product taken into account at the final stage.

Article 5

1. If, for a factor or for a component taken into account at any stage, the tax burden at previous stages has not been calculated in accordance with Article 4, the bourden on that factor or that component may be increased at a standard rate of 50%. If, however, the amount of the tax burden on that factor or that component is due to the application of a special rate, that amount must be recalculated before application of the standard rate, on the basis of the standard rate of turnover tax. Where that special rate covers one or more previous stages, the burden resulting from the application of that rate shall not be increased at a standard rate.

2. The burden thus calculated for previous stages may not exceed that which would result from applying Articles 4 and 6 to that factor or component.

Article 6

If, for a factor or component taken into account at any stage, an average rate exists, that may be used for calculating the previous tax burden on that factor or that component where it is in accordance with Article 97. This rate shall be applied if it is supported by calculations submitted to the Commission in accordance with Article 10.

Article 7

1. Where, in the case of a product or group of products, a Member State does not calculate the average tax burden in accordance with Articles 2 to 6, that burden may be estimated at a standard rate corresponding to 100%, 75%, 50% or 30% of the standard rate of turnover tax, according to whether the factors and components of the product or group of products which may be taken into account at the final stage and are liable to the standard rate or to the increased rate of turnover tax represent 65%, 50%, 35% or less than 35%, respectively, of the selling price of the product or group of products before tax.

2. The burden thus estimated may not exceed the average tax burden which would result from applying Articles 2, 3, 4 and 6.

Article 8

The average rates shall be rounded to the next half point above or below according to whether the decimal fraction of the rate obtained reaches or does not reach 0·75 or 0·25.

Article 9

After consulting the Member States, the Commission shall, if necessary, lay down by directive the procedure for application of Articles 1 to 8.

Article 10

1. Where a Member State intends to introduce or to alter an average rate, it shall submit to the Commission the calculations by which the average tax burden was established in accordance with Articles 1 to 8.

2. Where the Commission considers that a tax burden established at a standard rate in accordance with Article 5 or 7 exceeds the limits set in paragraph 2 of those Articles, the Member State shall submit to the Commission, on request, the calculation by which that burden was established under Articles 2, 3, 4 and 6.

Article 11

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

This Directive is addressed to the Member States.

Done at Luxembourg, 30 April 1968.

For the Council

The President

M. COUVE de MURVILLE

COUNCIL DIRECTIVE

of 19 July 1968

on the standardisation of provisions regarding the duty-free admission of fuel contained in the fuel tanks of commercial motor vehicles

(68/297/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 75 and 99 thereof;

Having regard to the Council Decision[1] of 13 May 1965 on the harmonisation of certain provisions affecting competition in transport by rail, road and inland waterway, and in particular Article 1 (b) thereof;

Having regard to the proposal from the Commission:

Having regard to the Opinion of the European Parliament[2];

Having regard to the Opinion of the Economic and Social Committee[3];

Whereas the adoption of a common transport policy calls for the establishment of common rules for international transport to or from the territory of a Member State, or passing across the territory of one or more Member States;

Whereas the establishment of these common rules should also include standardisation of the provisions concerning the duty-free admission of fuel contained in the fuel tanks of commercial motor vehicles;

Whereas, in order to harmonise conditions of competition between carriers in the various Member States:

— the minimum quantity of fuel admitted duty-free should be specified, and the conditions for duty-free admission of additional quantities should be laid down;

— the provisions applicable in a Member State concerning the duty-free admission of fuel should be the same irrespective of the Member State in which the vehicle is registered;

Whereas, in order to avoid abuses in respect of fuel imported duty-free, special provisions should be made with regard to frontier zones;

HAS ADOPTED THIS DIRECTIVE:

Article 1

Member States shall, acting in accordance with this Directive, standardise provisions regarding the duty-free admission of fuel contained in fuel tanks of commercial motor vehicles registered in a Member State and travelling across common frontiers between Member States.

Article 2

For the purposes of this Directive 'commercial motor vehicle' means any motorised road vehicle which in construction and equipment is suitable and intended for the carriage, with or without remuneration:

(a) of more than nine persons including the driver;

(b) of goods.

Article 3

1. With effect from 1 February 1969 at the latest, Member States shall admit duty-free a quantity of fifty litres of motor fuel.

2. Whenever a major approximation of national systems of diesel fuel taxation is undertaken, the Council, acting unanimously on a proposal from the Commission, shall specify the quantity of fuel which Member States shall admit duty-free in excess of the quantity specified in paragraph 1.

The Council shall, following the same procedure, take a decision concerning the duty-free admission of all of the fuel contained in the normal fuel tanks of commercial motor vehicles, once differences in the

[1] OJ No 88, 24.5.1965, p. 1500/65.
[2] OJ No 28, 17.2.1967, p. 459/67.
[3] OJ No 42, 7.3.1967, p. 618/67.

aforesaid systems of taxation have been sufficiently reduced.

3. Each Member State may admit duty-free quantities of fuel in excess of the quantities admissible pursuant to the provisions of paragraphs 1 and 2.

4. Quantities of fuel specified by a Member State pursuant to any of the foregoing paragraphs shall be the same irrespective of the Member State in which the commercial motor vehicle is registered.

Article 4

In no case may measures adopted by a Member State pursuant to this Directive be less favourable than those applied by that Member State to commercial motor vehicles registered in third countries and travelling across common frontiers between Member States.

Article 5

1. Each Member State may, after consulting the Commission, limit the quantities admitted duty-free in pursuance of Article 3 (2) as regards commercial motor vehicles performing international transport operations into its frontier zone to a depth not exceeding twenty-five kilometres as the crow flies.

2. Quantities of fuel specified by a Member State pursuant to paragraph 1 shall be the same irrespective of the Member State in which the commercial motor vehicle concerned is registered.

Article 6

Member States shall inform the Commission of the measures taken to implement this Directive.

Article 7

This Directive is addressed to the Member States.

Done at Brussels, 19 July 1968.

For the Council

The President

O. L. SCALFARO

. Commission Directive of 12 December 1968
(69/12/EEC)
(O.J. No L 10 of 16.1.1969, p. 14)

The text is not available in the english language

. Commission Directive on 11 February 1969 **(69/69/EEC)**
(O.J. No. 52 of 3.3.1969, p. 6)

The text is not available in the english language

. Opinion of the Commission of 9 April 1969
(69/128/EEC)
(O.J. No L 110 of 8.5.1969, p. 6)

The text is not available in the english language

No L 133/6 Official Journal of the European Communities 4.6.69

COUNCIL DIRECTIVE

of 28 May 1969

on the harmonisation of provisions laid down by law, regulation or administrative action relating to exemption from turnover tax and excise duty on imports in international travel

(69/169/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 99 thereof;

Having regard to the proposal from the Commission;

Whereas, notwithstanding the achievement of the customs union, which involves the abolition of customs duties and the majority of the charges having equivalent effect in trade between Member States, it is necessary, until harmonisation of indirect taxes has reached an advanced stage, to retain the imposition of tax on importation and the remission of tax on exportation in such trade;

Whereas it is desirable that, even before such harmonisation, the populations of the Member States should become more strongly conscious of the reality of the common market and that to this end measures should be adopted for the greater liberalisation of the system of taxes on imports in travel between Member States; whereas the need for such measures has been emphasised repeatedly by members of the Assembly;

Whereas reductions of this kind in respect of travel constitute a further step in the direction of the reciprocal opening of the markets of the Member States and the creation of conditions similar to those of a domestic market;

Whereas such reductions must be limited to non-commercial importations of goods by travellers; whereas, as a general rule, such goods can only be obtained in the country from which they come (country of exit) already taxed, so that if the country of entry forgoes, within the prescribed limits, charging turnover tax and excise duty on imports, this avoids double taxation without leading to an absence of taxation;

Whereas a Community system of tax reductions on imports has proved necessary also in respect of travel between third countries and the Community;

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. Exemption from turnover tax and excise duty on imports shall apply, as regards travel between third countries and the Community, to goods in travellers' personal luggage, if such imports have no commercial character and the total value of the goods does not exceed 25 units of account per person.

2. Member States may reduce this exemption to 10 units of account for travellers under fifteen years old.

3. Where the total value per person of several items exceeds 25 units of account or the amount fixed pursuant to paragraph 2, as the case may be, exemption up to these amounts shall be granted for such of the items as would, if imported separately, have been granted exemption, it being understood that the value of an individual item cannot be split up.

Article 2

1. Exemption from turnover tax and excise duty on imports shall apply, as regards travel between Member States, to goods in travellers' personal luggage which fulfil the conditions laid down in Articles 9 and 10 of the Treaty, if such imports have no commercial character and the total value of the goods does not exceed 75 units of account per person. This exemption shall be granted also where

the travel includes transit through territory other than that of a Member State.

2. Member States may reduce this exemption to 20 units of account for travellers under fifteen years old.

3. Where the total value per person of several items exceeds 75 units of account or the amount fixed pursuant to paragraph 2, as the case may be, exemption up to these amounts shall be granted for such of the items as would, if imported separately, have been granted exemption, it being understood that the value of an individual item cannot be split up.

Article 3

For the purposes of this Directive:

1. The value of personal effects which are imported temporarily or are re-imported following their temporary export shall not be taken into consideration for determining the exemption referred to in Articles 1 and 2.

2. Importations shall be regarded as having no commercial character if they:

(a) take place occasionally, and

(b) consist exclusively of goods for the personal or family use of the travellers, or of goods intended as presents; the nature or quantity of such goods must not be such as might indicate that they are being imported for commercial reasons.

Article 4

1. Without prejudice to national provisions applicable to travellers whose residence is outside Europe, each Member State shall set the following quantitative limits for exemptions from turnover tax and excise duty of the goods listed below:

(a) Tobacco products:

200 cigarettes

or 100 cigarillos (cigars of a maximum weight of 3 grammes each)

or 50 cigars

or 250 grammes of smoking tobacco

(b) alcoholic beverages:

— distilled beverages and spirits of an alcoholic strength exceeding 22°: 1 standard bottle (0·70 to 1 litre)

or

— distilled beverages and spirits, and aperitifs with a wine or alcohol base of an alcoholic strength not exceeding 22°; sparkling wines, fortified wines: to a total of 2 litres

and

— still wines: to a total of 2 litres

(c) Perfumes: 50 grammes

and

toilet waters: 1/4 litre

(d) Coffee: 500 grammes

or coffee extracts and essences: 200 grammes

(e) Tea: 100 grammes

or tea extracts and essences: 40 grammes

2. Exemption for the goods mentioned in paragraph 1 (a), (b) and (d) shall not be granted to travellers under fifteen years old.

3. Within the quantitative limits set in paragraph 1 and taking account of the restrictions in paragraph 2, the value of the goods listed in paragraph 1 shall not be taken into consideration in determining the exemption referred to in Articles 1 and 2.

Article 5

1. Member States may set lower limits as to value and/or quantity for the exemption of goods when they are imported

— in frontier zone travel

— by the crew of the means of transport used in international travel

— by members of the armed forces of a Member State, including civilian personnel and spouses and dependent children, stationed in another Member State.

2. Member States may exclude from exemption goods falling within headings Nos 71.07 and 71.08 of the Common Customs Tariff.

3. Member States may reduce the quantities of the goods referred to in Article 4 (1) (a) and (d) for travellers coming from a third country who enter a Member State.

Article 6

Member States shall take appropriate measures to avoid remission of tax being granted for deliveries to travellers whose domicile, habitual residence or place of work is situated in a Member State and who benefit from the arrangements provided for in this Directive.

Article 7

Member States may round off the amount in national currency resulting from the conversion of the amounts in units of account stated in Articles 1 and 2.

Article 8

1. Member States shall bring into force not later than 1 January 1970 the measures necessary to comply with this Directive.

2. Each Member State shall inform the Commission of the measures which it adopts to implement this Directive.

The Commission shall communicate such information to the other Member States.

Article 9

This Directive is addressed to the Member States.

Done at Brussels, 28 May 1969.

For the Council

The President

G. THORN

3.10.69 Official Journal of the European Communities No L 249/25

COUNCIL DIRECTIVE

of 17 July 1969

concerning indirect taxes on the raising of capital

(69/335/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament[1];

Having regard to the Opinion of the Economic and Social Committee[2];

Whereas the objective of the Treaty is to create an economic union whose characteristics are similar to those of a domestic market and whereas one of the essential conditions for achieving this is the promotion of the free movement of capital;

Whereas the indirect taxes on the raising of capital, in force in the Member States at the present time, namely the duty chargeable on contribution of capital to companies and firms and the stamp duty on securities, give rise to discrimination, double taxation and disparities which interfere with the free movement of capital and which, consequently, must be eliminated by harmonisation;

Whereas the harmonisation of such taxes on the raising of capital must be arranged in such a way as to minimise the budgetary repercussions for Member States;

Whereas the charging of stamp duty by a Member State on securities from other Member States introduced into or issued within its territory is contrary to the concept of a common market whose characteristics are those of a domestic market; whereas, in addition, it has become evident that the retention of stamp duty on the issue of securities in respect of internal loans and on the introduction or issue on the market of a Member State of foreign securities is both undesirable from the economic point of view and inconsistent with current developments in the tax laws of the Member States in this field;

Whereas, in these circumstances, it is advisable to abolish the stamp duty on securities, regardless of the origin of such securities, and regardless of whether they represent a company's own capital or its loan capital;

Whereas it is inherent in the concept of a common market whose characteristics are those of a domestic market that duty on the raising of capital within the common market by a company or firm should be charged only once and that the level of this duty should be the same in all Member States so as not to interfere with the movement of capital;

Whereas, therefore, this duty should be harmonised, with regard both to its structures and to its rates;

Whereas the retention of other indirect taxes with the same characteristics as the capital duty or the stamp duty on securities might frustrate the purpose of the measures provided for in this Directive and those taxes should therefore be abolished;

HAS ADOPTED THIS DIRECTIVE:

Article 1

Member States shall charge on contributions of capital to capital companies a duty harmonised in accordance with the provisions of Articles 2 to 9 and hereinafter called 'capital duty'.

Article 2

1. Transactions subject to capital duty shall only be taxable in the Member State in whose territory the effective centre of management of a capital company is situated at the time when such transactions take place.

[1] OJ No 119, 3.7.1965, p. 2057/65.
[2] OJ No 134, 23.7.1965, p. 2227/65.

2. When the effective centre of management of a capital company is situated in a third country and its registered office is situated in a Member State, transactions subject to capital duty shall be taxable in the Member State where the registered office is situated.

3. When the registered office and the effective centre of management of a capital company are situated in a third country, the supplying of fixed or working capital to a branch situated in a Member State may be taxed in the Member State in whose territory the branch is situated.

Article 3

1. For the purposes of this Directive the expression 'capital company' means:

(a) companies under Belgian, German, French, Italian, Luxembourg and Netherlands law* known respectively as:

— société anonyme/naamloze vennootschap, Aktiengesellschaft, société anonyme, società per azioni, société anonyme, naamloze vennootschap;

— société en commandite par actions/commanditaire vennootschap op aandelen, Kommanditgesellschaft auf Aktien, société en commandite par actions, società in accomandita per azioni, société en commandite par actions, commanditaire vennootschap op aandelen;

— société de personnes à responsabilité limitée/personenvennootschap met beperkte aansprakelijkheid, Gesellschaft mit beschränkter Haftung, société à responsabilité limitée, società a responsabilità limitata, société à responsabilité limitée;

(b) any company, firm, association or legal person the shares in whose capital or assets can be dealt in on a stock exchange;

(c) any company, firm, association or legal person operating for profit, whose members have the right to dispose of their shares to third parties without prior authorisation and are only responsible for the debts of the company, firm, association or legal person to the extent of their shares.

2. For the purposes of the application of this Directive, any other company, firm, association or legal person operating for profit shall be deemed to be a capital company. However, a Member State shall have the right not to consider it as such for the purpose of charging capital duty.

Article 4

1. The following transactions shall be subject to capital duty:

(a) the formation of a capital company;

(b) the conversion into a capital company of a company, firm, association or legal person which is not a capital company;

(c) an increase in the capital of a capital company by contribution of assets of any kind;

(d) an increase in the assets of a capital company by contribution of assets of any kind, in consideration, not of shares in the capital or assets of the company, but of rights of the same kind as those of members, such as voting rights, a share in the profits or a share in the surplus upon liquidation;

(e) the transfer from a third country to a Member State of the effective centre of management of a company, firm, association or legal person, whose registered office is in a third country and which is considered in that Member State, for the purposes of charging capital duty, as a capital company;

(f) the transfer from a third country to a Member State of the registered office of a company, firm, association or legal person, whose effective centre of management is in a third country and which is considered in that Member State, for the purposes of charging capital duty, as a capital company;

(g) the transfer from a Member State to another Member State of the effective centre of management of a company, firm, association or legal person which is considered in the latter Member State, for the purposes of charging capital duty, as a capital company, but is not so considered in the other Member State;

(h) the transfer from a Member State to another Member State of the registered office of a com-

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* The technical adaptation work has resulted in the following being presented by the Commission to the Council

In Article 3 (1) (a)

— substitute a comma for the word 'and'

— add after the word 'Netherlands': 'United Kingdom, Irish, Danish and Norwegian'

— in the first indented paragraph, add after the words: 'naamloze vennootschap':

'companies incorporated with limited liability, companies with limited liabilty which are formed and registered under the Companies Acts or the Joint Stock Companies Acts or which are incorporated by charter or private Act of Parliament, Aktieselskab, Aksjeselskap.'

— in the second indented paragraph, add after the words 'commanditaire vennootschap op aandelen':

'Kommandit-aktieselskab, Kommandittaksjeselskap'.

pany, firm, association or legal person, whose effective centre of management is in a third country and which is considered in the latter Member State, for the purposes of charging capital duty, as a capital company, but is not so considered in the other Member State.

2. The following transactions may be subject to capital duty:

(a) an increase in the capital of a capital company by capitalisation of profits or of permanent or temporary reserves;

(b) an increase in the assets of a capital company through the provision of services by a member which do not entail an increase in the company's capital, but which do result in variation in the rights in the company or which may increase the value of the company's shares;

(c) a loan taken up by a capital company, if the creditor is entitled to a share in the profits of the company;

(d) a loan taken up by a capital company with a member or a member's spouse or child, or a loan taken up with a third party, if it is guaranteed by a member, on condition that such loans have the same function as an increase in the company's capital.

3. Formation, within the meaning of paragraph 1 (a), shall not include any alteration of the constituent instrument or regulations of a capital company, and in particular:

(a) the conversion of a capital company into a different type of capital company;

(b) the transfer from a Member State to another Member State of the effective centre of management or of the registered office of a company, firm, association or legal person which is considered in both Member States, for the purposes of charging capital duty, as a capital company;

(c) a change in the objects of a capital company;

(d) the extension of the period of existence of a capital company.

Article 5

1. The duty shall be charged:

(a) in the case of formation of a capital company or of an increase in its capital or assets, as referred to in Article 4 (1) (a), (c) and (d): on the actual value of assets of any kind contributed or to be contributed by the members, after the deduction of liabilities assumed and of expenses borne by the company as a result of each contribution. Member States may postpone the charging of capital duty until the contributions have been effected;

(b) in the case of conversion into a capital company or of the transfer of the effective centre of management or of the registered office of a capital company, as referred to in Article 4 (1) (b), (e), (f), (g) and (h); on the actual value of the assets of any kind belonging to the company at the time of the conversion or transfer, after the deduction of liabilities and expenses for which the company is responsible at that time;

(c) in the case of an increase in the capital by capitalisation of profits reserves, or provisions, as referred to in Article 4 (2) (a): on the nominal amount of such increase;

(d) in the case of an increase in the assets, as referred to in Article 4 (2) (b): on the actual value of the services provided, after deduction of the liabilities assumed and the expenses borne by the company as a result of the provision of such services;

(e) in the case of loans referred to in Article 4 (2) (c) and (d): on the nominal amount of the loan taken up.

2. In the cases referred to in paragraph 1 (a), (b) and (c), the amount on which the duty is charged shall not, however, be less than the actual value of the shares in the company allotted or belonging to each member or the nominal amount of such shares if the latter exceeds their actual value.

3. The amount on which the duty is charged in the case of an increase in capital shall not include:

— the amount of the assets belonging to the capital company which are allocated to the increase in capital and which have already been subjected to capital duty;

— the amount of the loans taken up by the capital company which are converted into shares in the company and which have already been subjected to capital duty.

Article 6

1. Each Member State may exclude from the basis of assessment, as determined in accordance with Article 5, the amount of the capital contributed by a member with unlimited liability for the obligations of a capital company as well as the share of such a member in the company's assets.

2. Where a Member State exercises the power provided for in paragraph 1, the following shall be subject to capital duty:

— the transfer of the effective centre of management of a capital company to another Member State which does not exercise that power;

— the transfer of the registered office of a capital company whose effective centre of management is in a third country to another Member State which does not exercise that power;

— any transaction as a result of which the liability of a member is limited to his share in the company's capital, in particular when the limitation of liability results from the conversion of a capital company into a different type of capital company.

Capital duty shall be charged in all such cases on the value of the share in the company's assets belonging to members with unlimited liability for the company's obligations.

Article 7

1. Until the entry into force of the provisions to be adopted by the Council in accordance with paragraph 2:

(a) the rate of capital duty may not exceed 2% or be less than 1%;

(b) this rate shall be reduced by 50% or more when one or more capital companies transfer all their assets and liabilities, or one or more parts of their business to one or more capital companies which are in the process of being formed or which are already in existence.

This reduction shall be subject to the condition that:

— the consideration for the contributions shall consist exclusively of the allocation of shares in the company or companies, although Member States shall have the right to extend application of the reduction to cases in which the consideration for contributions consists of the allocation of shares in the company or companies together with a payment in cash not exceeding 10% of the nominal value of the shares;

— the companies taking part in the transaction have their effective centre of management or their registered office within the territory of a Member State;

(c) the rate of capital duty may be reduced to 0·5% until 1 January 1973 and to 1% from that date in the case of formation of, or increase in, the capital of holding or investment companies whose sole object is the holding of shares in other undertakings and the management and turning to profitable account of such shares, subject to the condition that such companies do not engage in industry or commerce on their own account and do not operate a commercial establishment open to the public.

2. In order to enable the Council to determine the common rates for capital duty before the end of the transitional period, the Commission shall submit a proposal to the Council on this subject before 1 January 1971.

3. In the case of an increase in a company's capital in accordance with Article 4 (1) (c), following a reduction in the company's capital as a result of losses sustained, the rate may be reduced for that part of the increase which corresponds to the reduction in capital, if this increase occurs within four years of the reduction in capital.

4. Where a Member State exercises the power provided for in Article 4 (2), capital duty may be charged at a reduced rate.

Article 8

A Member State may partially or totally exempt from capital duty the transactions referred to in Article 4 (1) and (2) relating to:

— capital companies which supply public services, such as public transport undertakings, port authorities or undertakings supplying water, gas or electricity, in cases where the State or regional or local authorities own at least half of the company's capital;

— capital companies which, in accordance with their regulations and in fact, pursue exclusively and directly cultural, charitable, relief or educational objectives.

Article 9

Certain types of transactions or of capital companies may be the subject of exemptions, reductions or increases in rates in order to achieve fairness in taxation, or for social considerations, or to enable a Member State to deal with special situations. The Member State which proposes to take such a measure shall refer the matter to the Commission in good time, having regard to the application of Article 102 of the Treaty.

Article 10

Apart from capital duty, Member States shall not charge, with regard to companies, firms, associations

or legal persons operating for profit, any taxes whatsoever:

(a) in respect of the transactions referred to in Article 4;

(b) in respect of contributions, loans or the provision of services, occurring as part of the transactions referred to in Article 4;

(c) in respect of registration or any other formality required before the commencement of business to which a company, firm, association or legal person operating for profit may be subject by reason of its legal form.

Article 11

Member States shall not subject to any form of taxation whatsoever:

(a) the creation, issue, admission to quotation on a stock exchange, making available on the market or dealing in stocks, shares or other securities of the same type, or of the certificates representing such securities, by whomsoever issued;

(b) loans, including government bonds, raised by the issue of debentures or other negotiable securities, by whomsoever issued, or any formalities relating thereto, or the creation, issue, admission to quotation on a stock exchange, making available on the market or dealing in such debentures or other negotiable securities.

Article 12

1. Notwithstanding Articles 10 and 11, Member States may charge:

(a) duties on the transfer of securities, whether charged at a flat rate or not;

(b) transfer duties, including land registration taxes, on the transfer, to a company, firm, association or legal person operating for profit, of businesses or immovable property situated within their territory;

(c) transfer duties on assets of any kind transferred to a company, firm, association or legal person operating for profit, in so far as such property is transferred for a consideration other than shares in the company;

(d) duties on the creation, registration or discharge of mortgages or other charges on land or other property;

(e) duties paid by way of fees or dues;

(f) value added tax.

2. The duties and taxes referred to in paragraph 1 (b), (c), (d) and (e) shall be the same, whether the effective centre of management or the registered office of the company, firm, association or legal person operating for profit is situated within the territory of the Member State charging the duties or taxes or not; nor may these duties and taxes exceed those which are applicable to like transactions in the Member State charging them.

Article 13

Member States shall bring into force by 1 January 1972 such provisions by way of law, regulation or administrative action as may be necessary to comply with the provisions of this Directive and shall forthwith inform the Commission thereof.

Article 14

Member States shall ensure that the texts of the main provisions of internal law which they subsequently adopt in the field covered by this Directive are forwarded to the Commission.

Article 15

This Directive is addressed to the Member States.

Done at Brussels, 17 July 1969.

For the Council

The President

H. J. WITTEVEEN

No L 320/34 Official Journal of the European Communities 20.12.69

THIRD COUNCIL DIRECTIVE

of 9 December 1969

on the harmonisation of legislation of Member States concerning turnover taxes — introduction of value added tax in Member States

(69/463/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament[1];

Having regard to the Opinion of the Economic and Social Committee[2];

Whereas the Italian Republic and the Kingdom of Belgium made known to the Commission, on 14 July and 12 September 1969 respectively, that they were not in a position to meet the final date of 1 January 1970 for the introduction of value added tax as provided in the second paragraph of Article 1 of the First Council Directive of 11 April 1967[3] on the harmonisation of legislation of Member States concerning turnover taxes; whereas, consequently, those Member States have asked for a further period of two years and one year respectively for the introduction of that tax;

Whereas the Kingdom of Belgium considers that it is not in a position to apply value added tax on the date laid down, mainly for conjunctural and budgetary reasons peculiar to Belgium;

Whereas the Italian Republic has pointed out that a proposal for the general reform of taxes has now been tabled for consideration and adoption by Parliament, which has not yet considered this problem; whereas, according to that proposal, the appropriate legislation must be adopted before 31 October 1970; whereas, consequently, that Member State is not in a position to apply value added tax on the date laid down;

Whereas an additional period may be granted only if it is kept to a minimum;

Whereas, in these circumstances, introduction of value added tax may not be delayed beyond 1 January 1972;

Whereas one of the main objectives of the First Directive mentioned above is, through the introduction of value added tax on 1 January 1970, to establish conditions making it possible to avoid competition being distorted by turnover taxes;

Whereas that objective cannot be attained by 1 January 1970, in particular as regards trade, since these Member States will continue to apply, by means of turnover taxes, average rates of equalisation of the internal tax burden;

Whereas Member States which are not in a position to introduce value added tax by 1 January 1970 should not increase their average equalisation rates in operation on 1 October 1969;

HAS ADOPTED THIS DIRECTIVE:

Article 1

The date of 1 January 1972 shall be substituted for that of 1 January 1970 laid down in Article 1 of the First Directive of 11 April 1967.

Article 2

For the purposes of this Directive, 'average rates' means the rates of countervailing charges on

[1] OJ No C 139, 28.10.1969, p. 32.
[2] OJ No C 144, 8.11.1969, p. 13.
[3] OJ No 71, 14.4.1967, p. 1301/67.

importation and of repayments on exportation introduced so as to equalise, as regards national products, the burden resulting from the cumulative multi-stage turnover tax at the various stages of production, excluding the tax on sales by the final producer.

Article 3

The average rates in force on 1 October 1969 may not be increased.

However, the average rates in operation on that date shall be adapted to any later changes in the rates of turnover tax.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 9 December 1969.

For the Council

The President

H. J. DE KOSTER

. Resolution of the Council of 9 December 1969
(369Y 1223(01))
(O.J. No. C 163 of23.12.1969, p. 1)

The text is not available in the english language

. Resolution of the Council of 21 April 1970
(370y0428(01)
O.J. No C 50 of 28.4.1970, p. 1)

The text is not available in the english language

28.4.70 Official Journal of the European Communities No L 94/19

COUNCIL DECISION

of 21 April 1970

on the Replacement of Financial Contributions from Member States by the Communities' own Resources

(70/243 ECSC, EEC, Euratom)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 201 thereof;

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 173 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament;

Having regard to the Opinion of the Economic and Social Committee;

Whereas complete replacement of the financial contributions from Member States by the Communities' own resources can only be achieved progressively;

Whereas Article 2 (1) of Regulation No 25 on financing the common agricultural policy stipulates that at the single market stage revenue from agricultural levies shall be allocated to the Community and appropriated to Community expenditure;

Whereas Article 201 of the Treaty establishing the European Economic Community refers explicitly, among the Community's own resources which could replace financial contributions from Member States, to revenue accruing from the Common Customs Tariff when the latter has been finally introduced;

Whereas the effects on the budgets of the Member States of the transfer to the Communities of revenue accruing from the Common Customs Tariff should be mitigated; whereas a system should be provided which will make it possible to achieve total transfer progressively and within a definite period of time;

Whereas revenue accruing from agricultural levies and customs duties is not sufficient to ensure that the budget of the Communities is in balance; whereas, therefore, it is advisable to allocate to the Communities, in addition, tax revenue, the most appropriate being that accruing from the application of a single rate to the basis for assessing the value added tax, determined in a uniform manner for the Member States;

HAS LAID DOWN THESE PROVISIONS, WHICH IT RECOMMENDS TO THE MEMBER STATES FOR ADOPTION:

Article 1

The Communities shall be allocated resources of their own in accordance with the following Articles in order to ensure that their budget is in balance.

Article 2

From 1 January 1971 revenue from:

(a) levies, premiums, additional or compensatory amounts, additional amounts or factors and other duties established or to be established by the institutions of the Communities in respect of trade with non-member countries within the framework of the common agricultural policy, and also contributions and other duties provided for within the framework of the organisation of the markets in sugar (hereinafter called 'agricultural levies');

(b) Common Customs Tariff duties and other duties established or to be established by the institutions of the Communities in respect of trade with non-member countries (hereinafter called 'customs duties');

Shall, in accordance with Article 3, constitute own resources to be entered in the budget of the Communities.

In addition, revenue accruing from other charges introduced within the framework of a common policy in accordance with the provisions of the Treaty establishing the European Economic Community or the Treaty establishing the European Atomic Energy Community shall constitute own resources to be entered in the budget of the Communities, subject to the procedure laid down in Article 201 of the Treaty establishing the European Economic Community or in Article 173 of the Treaty establishing the European Atomic Energy Community having been followed.

Article 3

1. From 1 January 1971 the total revenue from agricultural levies shall be entered in the budget of the Communities.

From the same date, revenue from customs duties shall progressively be entered in the budget of the Communities.

The amount of the customs duties appropriated to the Communities each year by each Member State shall be equal to the difference between a reference amount and the amount of the agricultural levies appropriated to the Communities pursuant to the first subparagraph. Where this difference is negative, there shall be no payment of customs duties by the Member State concerned nor repayment of agricultural levies by the Communities.

The reference amount referred to in the third subparagraph shall be:

— 50% in 1971
— 62·5% in 1972
— 75% in 1973
— 87·5% in 1974
— 100% from 1 January 1975 onwards

of the total amount of the agricultural levies and customs duties collected by each Member State.

The Communities shall refund to each Member State 10% of the amounts paid in accordance with the preceding subparagraphs in order to cover expense incurred in collection.

2. During the period 1 January 1971 to 31 December 1974, the financial contributions from Member States required in order to ensure that the budget of the Communities is in balance shall be apportioned on the following scale:

— Belgium	6·8
— Germany	32·9
— France	32·6
— Italy	20·2
— Luxembourg	0·2
— Netherlands	7·3

3. During the same period, however, the variation from year to year in the share of each Member State in the aggregate of the amounts paid in accordance with paragraphs 1 and 2 may not exceed 1% upwards or 1·5% downwards, where these amounts are taken into consideration within the framework of the second subparagraph. For 1971, the financial contributions of each Member State to the combined budgets for 1970 shall be taken as reference for the application of this rule, to the extent that these budgets are taken into consideration within the framework of the second subparagraph.

In the application of the first subparagraph, the following factors shall be taken into consideration for each financial year:

(a) Expenditure relating to payment appropriations decided on for the financial year in question for the research and investment budget of the European Atomic Energy Community, with the exception of expenditure relating to supplementary programmes;

(b) Expenditure relating to appropriations to the European Social Fund;

(c) For the European Agricultural Guidance and Guarantee Fund, expenditure relating to appropriations to the Guarantee Section and to the Guidance Section, with the exception of appropriations entered or re-entered for accounting periods preceding the financial year concerned. For the reference year 1970 such expenditure shall be:

— for the Guarantee Section, that referred to in Article 8 of Council Regulation (EEC) No 728/70 of 21 April 1970 laying down additional provisions for financing the common agricultural policy;

— for the Guidance Section, an amount of 285 million units of account apportioned on the basis of the scale laid down in Article 7 of that Regulation;

it being understood that, for calculating the share of Germany, a percentage of 31·5 shall be taken as the reference scale;

(d) Other expenditure relating to the appropriations entered in the Community budget.

Should the application of this paragraph to one or more Member States result in a deficit in the budget of the Communities, the amount of that deficit shall be shared for the year in question between the other Member States within the limits laid down in the first subparagraph and according to the contribution scale fixed in paragraph 2. If necessary, the operation shall be repeated.

4. Financing from the Communities' own resources of the expenditure connected with research programmes of the European Atomic Energy Community shall not exclude entry in the budget of the Communities of expenditure relating to supplementary programmes or the financing of such expenditure by means of financial contributions from Member States determined according to a special scale fixed pursuant to a Decision of the Council acting unanimously.

5. By way of derogation from this Article, appropriations entered in a budget preceding that for the financial year 1971 and carried over or re-entered in a later budget shall be financed by financial contributions from Member States according to scales applicable at the time of their first entry.

Appropriations to the Guidance Section which, while being entered for the first time in the 1971 budget, refer to accounting periods of the European Agricultural Guidance and Guarantee Fund preceding 1 January 1971 shall be covered by the scale relating to those periods.

Article 4

1. From 1 January 1975 the budget of the Communities shall, irrespective of other revenue, be financed entirely from the Communities' own resources.

Such resources shall include those referred to in Article 2 and also those accruing from the value added tax and obtained by applying a rate not exceeding 1% to an assessment basis which is determined in a uniform manner for Member States according to Community rules. The rate shall be fixed within the framework of the budgetary procedure. If at the beginning of a financial year the budget has not yet been adopted, the rate previously fixed shall remain applicable until the entry into force of a new rate.

During the period 1 January 1975 to 31 December 1977, however, the variation from year to year in the share of each Member State in relation to the preceding year may not exceed 2%. Should this percentage be exceeded, the necessary adjustment shall be made, within that variation limit, by financial compensation between the Member States concerned proportionate to the share borne by each of them in respect of revenue accruing from value added tax or from the financial contributions referred to in paragraphs 2 and 3.

2. By way of derogation from the second subparagraph of paragraph 1, if on 1 January 1975 the rules determining the uniform basis for assessing the value added tax have not yet been applied in all Member States but have been applied in at least three of them, the financial contribution to the budget of the Communities to be made by each Member State not yet applying the uniform basis for assessing the value added tax shall be determined according to the proportion of its gross national product to the sum total of the gross national products of the Member States. The balance of the budget shall be covered by revenue accruing from the value added tax in accordance with the second subparagraph of paragraph 1, collected by the other Member States. This derogation shall cease to be effective as soon as the conditions laid down in paragraph 1 are fulfilled.

3. By way of derogation from the second subparagraph of paragraph 1, if on 1 January 1975 the rules determining the uniform basis for assessing the value added tax have not yet been applied in three or more Member States, the financial contribution of each Member State to the budget of the Communities shall be determined according to the proportion of its gross national product to the sum total of the gross national products of the Member States. This derogation shall cease to be effective as soon as the conditions laid down in paragraphs 1 or 2 are fulfilled.

4. For the purpose of paragraphs 2 and 3, 'gross national product' means the gross national product at market prices.

5. From the complete application of the second subparagraph of paragraph 1, any surplus of the Communities' own resources over and above the actual expenditure during a financial year shall be carried over to the following financial year.

6. Financing expenditure connected with research programmes of the European Atomic Energy Community from the Communities' own resources shall not exclude entry in the budget of the Communities of expenditure relating to supplementary programmes nor the financing of such expenditure by means of financial contributions from Member States determined according to a special scale fixed pursuant to a Decision of the Council acting unanimously.

Article 5

The revenue referred to in Article 2, Article 3 (1) and (2) and Article 4 (1) to (5) shall be used without distinction to finance all expenditure entered in the budget of the Communities in accordance with Article 20 of the Treaty establishing a Single Council and a Single Commission of the European Communities.

Article 6

1. The Community resources referred to in Articles 2, 3 and 4 shall be collected by the Member States in accordance with national provisions imposed by law, regulation or administrative action, which shall, where necessary, be amended for that purpose. Member States shall make these resources available to the Commission.

2. Without prejudice to the auditing of accounts provided for in Article 206 of the Treaty establishing the European Economic Community, or to the inspection arrangements made pursuant to Article 209 (c) of that Treaty, the Council shall, acting unanimously on a proposal from the Commission and after consulting the European Parliament, adopt provisions relating to the supervision of collection, the making available to the Commission, and the payment of the revenue referred to in Articles 2, 3 and 4, and also the procedure for application of Article 3 (3) and Article 4.

Article 7

Member States shall be notified of this Decision by the Secretary-General of the Council of the European Communities; it shall be published in the *Official Journal of the European Communities.*

Member States shall notify the Secretary-General of the Council of the European Communities without delay of the completion of the procedures for the adoption of this Decision in accordance with their respective constitutional requirements.

This Decision shall enter into force on the first day of the month following receipt of the last of the notifications referred to in the second subparagraph. If, however, the instruments of ratification provided for in Article 12 of the Treaty amending Certain Budgetary Provisions of the Treaties establishing the European Communities and the Treaty establishing a Single Council and a Single Commission of the European Communities, have not been deposited before that date by all the Member States, this Decision shall enter into force on the first day of the month following the deposit of the last of those instruments of ratification.

Done at Luxembourg, 21 April 1970.

For the Council

The President

P. HARMEL

. Opinion of the Commission of 2 December 1970
(70/534/EEC)
(O.J. No L 274 of 18.12.1970, p. 27)

The text is not available in the english language

REGULATION (EEC EURATOM ECSC) No 2/71 OF THE COUNCIL

of 2 January 1971

implementing the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 78f thereof;

Having regard to the Treaty establishing the European Economic Community, and in particular Article 209 thereof;

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 183 thereof;

Having regard to the Treaty establishing a Single Council and a Single Commission of the European Communities, and in particular Article 20 thereof;

Having regard to the Decision of 21 April 1970[1] on the replacement of financial contributions from Member States by the Communities' own resources (hereinafter called 'Decision of 21 April 1970'), and in particular Article 6 (2) thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament[2];

Whereas the Decision of 21 April 1970 lays down that the Council must adopt provisions relating to the control, the making available and the payment of the Communities' own resources, and the procedure for application of Article 3 (3) and Article 4 of that Decision;

Whereas, pursuant to Article 20 of the Treaty establishing a Single Council and a Single Commission of the European Communities, the budgets of the three Communities were combined in a single budget;

Whereas, in application of that Treaty and of the Decision of 21 April 1970, the Communities' own resources must be entered in the Communities' budget in accordance with a procedure to be laid down;

Whereas it is appropriate to determine the time limits within which and the procedure whereby the Communities' own resources are entered into the accounts, paid over, and allocated to the budget; whereas such time limits and procedure should also be determined as regards standard refunds to Member States of the expenses incurred in collection;

Whereas the Member States keep at the disposal of the Commission and provide it where required with the documents and information needed to exercise the powers conferred upon it as regards the Communities' own resources and the budgetary procedure;

Whereas the Member States should arrange for verifications and inquiries related to establishing and making available the Communities' own resources; whereas the Commission should exercise its powers in accordance with this Regulation;

Whereas appropriate provision must be made as regards the share of each Member State and the factors which should be taken into account when applying Article 3 (3) and Article 4 (1) of the Decision of 21 April 1970, and also the adjustments between such shares;

Whereas the application of Article 4 (2), (3) and (4) of the Decision of 21 April 1970 requires a common definition of the gross national product and of the procedure for calculating this;

Whereas it is appropriate to specify the balance to be carried over to the following financial year and the

[1] OJ No L 94, 28.4.1970, p. 19.
[2] OJ No C 129, 26.10.1970, p. 26.

procedure whereby the revenue to be collected and the balance to be carried forward will be allocated to the budget;

Whereas close co-operation between Member States and the Commission will facilitate the application of this Regulation, which aims at enabling the Communities to dispose of their own resources under the best possible conditions;

HAS ADOPTED THIS REGULATION:

TITLE I

General provisions

Article 1

The Communities' own resources within the meaning of the Decision of 21 April 1970 (hereinafter called 'own resources') shall be established by Member States in accordance with their own provisions laid down by law, regulation or administrative action and shall be made available to the Commission in accordance with this Regulation, without prejudice to the provisions to be adopted in due course concerning revenue derived from value added tax.

Article 2

1. For the purposes of application of this Regulation, an entitlement shall be deemed to be established as soon as the corresponding claim has been duly determined by the appropriate department or agency of the Member State.

2. The competent department or agency of the Member State shall revise the entitlement established in accordance with paragraph 1 where the need for a rectification arises.

Article 3

Member States shall take all requisite measures to ensure that the supporting documents concerning established entitlements and the making available of own resources are kept for three years.

Article 4

1. Each Member State shall inform the Commission, at the latter's request:

(a) of the names of the departments or agencies responsible for establishing own resources and, where appropriate, their statutes;

(b) of the general provisions laid down by law, regulation, administrative action for relating to accounting procedure concerning the establishment of own resources and their being made available to the Commission.

2. The Commission shall pass such information to other Member States at their request.

Article 5

Each Member State shall draw up yearly a closing statement of account together with a report on the establishment and control of own resources and shall forward this to the Commission before 1 June of the year following the financial year concerned.

Article 6

1. Accounts for own resources shall be kept by the Treasury of each Member State and broken down into types of resources.

2. The established entitlements shall be entered in those accounts within a period of sixty days following the end of the month during which the entitlements were established.

Each Member State shall forward to the Commission, within the same period, a monthly statement of those accounts showing the position as regards the entitlements established for the month concerned.

3. The established entitlements shall be entered in the accounts of the Communities as revenue to be collected in so far as the amounts in question have not been paid over.

4. The amounts actually paid over shall be entered as revenue in the budget of the Communities.

TITLE II

Provisions for making available and paying over the Communities' own resources

Article 7

1. The amount of own resources established shall be entered by each Member State to the credit of the account opened with the Treasury for this purpose in the name of the Commission. This account shall be kept free of charge.

2. Each amount shall be entered gross. In the thirty days following notification of each entry, the

Commission shall issue a transfer order in favour of the Member State for the amounts corresponding to the standard refund for the expenses incurred in collection as referred to in the fifth subparagraph of Article 3 (1) of the Decision of 21 April 1970.

Article 8

1. Own resources to be established by each Member State together with its financial contribution shall be the subject of a provisional estimate entered in the budget, account being taken of Article 3 (3) and Article 4 (1) of the Decision of 21 April 1970.

2. Payment shall be made of the amount actually established by the Member State for the kind of resources involved; where appropriate, payment shall be made in the proportion fixed by the budget, subject to rectification when closing the accounts.

3. Adjustment shall be made for amounts which a Member State may have overpaid or which might still be owing.

Article 9

1. The entry referred to in Article 7 (1) shall be made within a period of sixty days following the end of the month during which the entitlement was established.

2. Any delay in making the entry shall give rise to the payment of interest by the Member State concerned at a rate equal to the highest rate of discount ruling in the Member States on the due date. That rate shall be increased by 0·25% for each month of delay.

Article 10

1. The entitlements established under Article 2 (2) shall be entered in the monthly return corresponding to the date of revision and shall be added to or subtracted from the total amount of the established entitlements.

The provisions of Article 9 (2) shall also apply to these new entitlements.

2. The expenses incurred in collection as referred to in the fifth paragraph of Article 3 (1) of the Decision of 21 April 1970 shall be refunded, account being taken of the entitlements established under Article 2 (2).

Article 11

1. The Commission shall have at its disposal for implementation of the budget the amounts credited to its account. Orders and instructions which, in accordance with actual needs, it forwards for this purpose to the Treasury or to the appropriate department of each Member State shall be carried out as soon as possible.

2. In cases of actual liquidity difficulty and where all possibility of obtaining advances against the financial contributions of Member States is exhausted, the Member States shall, at the Commission's request, make an advance on future resources not exceeding one and a half month's estimated revenue.

Advances exceeding the amount indicated in the first subparagraph and justified by the requirements of a rectifiying or supplementary preliminary draft budget may be authorised by the Council acting by a qualified majority on a proposal from the Commission. The method for settling the accounts shall be fixed at the same time as the authorisation is given.

Article 12

Transfer of funds shall be made, so far as possible, from currencies of Member States having a revenue surplus into currencies of the other Member States. They shall be restricted to actual cash requirements.

TITLE III

Provisions concerning measures of control

Article 13

1. Member States shall take all requisite measures to ensure that the amounts corresponding to the entitlements established under Articles 1 and 2 are made available to the Commission in accordance with this Regulation.

2. Member States shall not be required to place at the disposal of the Commission the amounts corresponding to established entitlements solely where, for reasons of *force majeure*, these amounts could not be collected.

3. Every six months Member States shall communicate to the Commission, where appropriate within the framework of existing procedures, comprehensive information and questions of principle concerning the most important problems arising out of the application of this Regulation and in particular matters in dispute.

Article 14

1. Member States shall carry out the verifications and inquiries concerning established entitlements and the making available of own resources. The Commission shall make use of its powers in accordance with this Article.

2. Accordingly, Member States shall:

— carry out any additional measures of control the Commission may ask for in a reasoned request;

— associate the Commission, at its request, with the measures of control which they are carrying out.

Member States shall take all steps required to facilitate these measures of control. Where the Commission is associated with these measures, Member States shall place at is disposal the supporting documents referred to in Article 3. In order to restrict as far as possible additional measures of control the Commission may, in special cases, require that certain documents be put at its disposal.

3. The measures of control referred to in paragraphs 1 and 2 shall not prejudice the following measures:

(a) the measures of control undertaken by Member States in accordance with their own provisions laid down by law, regulation or administrative action;

(b) the measures provided for in Article 206 of the Treaty establishing the European Economic Community and Article 180 of the Treaty establishing the European Atomic Energy Community;

(c) the inspection arrangements made pursuant to Article 209 (c) of the Treaty establishing the European Economic Community and Article 183 (c) of the Treaty establishing the European Atomic Energy Community.

4. Before the end of 1973, the Commission shall report to the Council on the functioning of the system.

5. The Council shall, acting unanimously on a proposal from the Commission, determine:

(a) the conditions which officials appointed by the Commission must satisfy when they carry out the verifications provided for in this Article, in particular with regard to professional secrecy and the procedure whereby they exercise their powers of investigation;

(b) where required, other provisions for applying this Article.

Article 15

The provisions of Community law applicable to matters referred to in the first paragraph of Article 2 of the Decision of 21 April 1970, in particular regarding nomenclature, origin, value for customs purposes, Community transit and inward processing, shall be applied by the appropriate authorities of Member States when establishing own resources.

TITLE IV

Procedure for application of Article 3 (3) and Article 4 (1) of the Decision of 21 April 1970

Article 16

1. For the purpose of this Regulation, 'share of each Member State' means the proportion of expenditure entered in the budget of the Communities and financed by means of own resources within the meaning of the Decision of 21 April 1970 deriving from that State, and also, where appropriate, by means of the financial contributions of that State, calculated in accordance with the scale shown in Article 3 (2) of that Decision.

2. The upper limit of the share of each Member State for any given financial year shall correspond to its share in the financing of the budget of the Communities of the preceding financial year, calculated in accordance with Article 3 (3) of the Decision of 21 April 1970, plus

— 1% until 31 December 1974;

— 2% between 1 January 1975 and 31 December 1977.

3. The lower limit of the share of each Member State for any given financial year shall correspond to its share in the financing of the budget of the Communities of the preceding financial year, calculated in accordance with Article 3 (3) of the Decision of 21 April 1970, less

— 1·5% until 31 December 1974;

— 2% between 1 January 1975 and 31 December 1977.

Article 17

For the purposes of application of Article 3 (3) and Article 4 (1) of the Decision of 21 April 1970 and without prejudice to Article 3 (5) of that Decision, the following factors shall be taken into account:

(a) the expenditure incurred during the financial year in question, plus the appropriations carried over to the following financial year, less the appropriations carried over from preceding financial years and written off, and also revenues other than own resources and financial contributions from Member States;

(b) for each Member State, the resources for which an entitlement has been established during the financial year in question.

Article 18

1. In so far as the shares of certain Member States do not fall within the limits referred to in Article 16 (2) and (3), the shares above and below the limits shall where necessary be adjusted to bring them within those limits; any deficiency in the budget shall then be apportioned among the other Member States in accordance with the scale laid down in Article 3 (2) of the Decision of 21 April 1970.

2. This operation shall be repeated if necessary.

3. Any surplus resulting from application of this Article shall be carried over to the following financial year.

Article 19

For budgets up to and including that for the financial year ending 31 December 1974, the adjustment provided for in Article 18 shall be carried out when the budget is finally passed and shall be finally adopted when the accounts for revenue and expenditure are submitted.

Article 20

1. From the financial year 1975 up to and including the year ending 31 December 1977, the adjustment to the budget provided for in Article 18 shall be carried out when the accounts for revenue and expenditure are submitted.

2. This adjustment shall give rise to financial compensation between the Member States concerned.

Article 21

1. The financial compensation referred to in Article 20 (2) shall be effected in accordance with the third subparagraph of Article 4 (1) of the Decision of 21 April 1970.

2. The Commission shall communicate to the Member States, during the month following the closure of the accounts for revenue and expenditure, the compensation account which it has drawn up, showing the debit or credit balance of each Member State. Each debtor Member State shall pay to each creditor Member State part of the amount shown in its debit account, that part being proportionate to the share of the creditor Member State in the total amount entered in the credit account.

3. In the month following this communication, the debtor Member States shall pay to the creditor Member States the amount owing in the national currency of the latter at the parity declared to the International Monetary Fund.

Article 22

The percentages to be taken into account for the calculations under Articles 16 to 20 shall, for each operation, be rounded off at the fourth decimal place.

TITLE V

Procedure for application of Article 4 (2), (3) and (4) of the Decision of 21 April 1970

Article 23

1. This Article shall be applicable where it may be necessary to take provisional measures in derogation under Article 4 (2) and (3) of the Decision of 21 April 1970.

2. The gross national product at market prices shall be calculated on the basis of statistics established by the Statistical Office of the European Communities; it shall correspond, for each Member State, to the arithmetic average for the first three years of the five-year period preceding the financial year in respect of which Article 4 (2) and (3) of the Decision of 21 April 1970 is applicable.

3. The gross national product shall be established in units of account at the parities declared to the International Monetary Fund.

If there is a change in parity in the course of a year, a parity based on the parities declared to the International Monetary Fund and weighted on a time basis shall be applied.

4. As long as the derogation provided for in Article 4 (2) of the Decision of 21 April 1970 is applied to one or more Member States, the Commission shall fix, in its preliminary draft budget,

the estimated percentage of the budget to be covered by the financial contributions of the Member State or States concerned on the basis of the proportion of their gross national product to the sum total of the gross national products of the Member States, and shall establish the rate of the value added tax corresponding to the remainder of the budget to be covered by the other Member States. The amounts shall be approved in accordance with budgetary procedure.

5. If at the close of the accounts of the financial year in question the Commission finds that the Member States which have paid financial contributions on the basis of the gross national product have in terms of percentage actually covered by means of those financial contributions more then their share, it shall establish the necessary adjustments taking account of the provisions of the third subparagraph of Article 4 (1) of the Decision of 21 April 1970.

6. For the purposes of this Regulation:

(a) the gross national product at market prices is equal to the gross domestic product at market prices plus income from employment, property and business received from the rest of the world less the corresponding flow towards the rest of the world;

(b) the gross domestic product at market prices, which represents the final outcome of production by resident productive units, corresponds to the total production of goods and services by the economy, less total intermediate consumption, plus import charges.

TITLE VI

Procedure for application of Article 4 (5) of the Decision of 21 April 1970

Article 24

1. The balance of one financial year to be carried over to the following financial year, in accordance with Article 4 (5) of the Decision of 21 April 1970, shall consist of the difference between:

— expenditure incurred during the financial year in question, plus the appropriations carried over to the following financial year, less appropriations carried over from the preceding financial years and written off; and

— all the revenue credited to the accounts for the financial year in question, less that part of the revenue credited to the accounts for the preceding financial year which was not collected during the financial year in question.

2. The outstanding amounts within the meaning of the second indent of paragraph 1 shall be recorded separately in a suspense account and credited to the account for the financial year during which they are actually collected.

3. The balance to be carried over shall be finally determined in accordance with the budgetary procedure at the same time as the account for revenue and expenditure referred to in Articles 19 and 20 are closed.

TITLE VII

Provisions relating to the Advisory Committee on the Communities' Own Resources, and final provisions

Article 25

1. An Advisory Committee on the Communities' Own Resources (hereinafter called the 'Committee') is hereby set up.

2. The Committee shall consist of representatives of the Member States and of the Commission. Each Member State shall be represented on the Committee by not more than five officials.

The Chairman of the Committee shall be a representative of the Commission.

Secretarial services for the Committee shall be provided by the Commission.

3. The Committee shall adopt its own rules of procedure.

Article 26

The Committee shall examine the questions raised by its Chairman, on his own initiative or at the request of the representative of a Member State, which concern the application of this Regulation, and in particular:

(a) information and communication provided for in Articles 4 (1) (b), 5 and 13 (3);

(b) cases of *force majeure* referred to in Article 13 (2);

(c) measures of control and inspection provided for in Article 14 (2).

Article 27

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities*.

It shall have effect from the date of entry into force of the Decision of 21 April 1970.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 2 January 1971.

For the Council

The President

M. SCHUMANN

- Resolution of the Council and of the Representatives of the Governments of the Member States of 22 March 1971
(47190327(01)
(O.J. No C 28 of 27.3.1971, p. 1)

The text is not available in the english language

. Fourth Council Directive of 20 December 1971
(71/401/EEC)
(O.J. No. L 283 of 24.12.1971, p. 41)

The text is not available in the english language

- Resolution of the Council and of the Representative of the Governments of the Member States of 21 March 1972
  472y0418(01)
  (O.J. No C 38 of 18.4.1972, p. 3)

The text is not available in the english language

No L 139/28 Official Journal of the European Communities 17.6.72

SECOND COUNCIL DIRECTIVE

of 12 June 1972

on the harmonization of provisions laid down by law, regulation or administrative action relating to the rules governing turnover tax and excise duty applicable in international travel

(72/230/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 99 thereof;

Having regard to the Council Directive of 28 May 1969[1] on the harmonization of provisions laid down by law, regulation or administrative action relating to exemption from turnover tax and excise duty on imports in international travel;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament;

Having regard to the Opinion of the Economic and Social Committee;

Whereas the Resolution of the Council and of the Representatives of the Governments of the Member States of 22 March 1971[2] on the achievement by stages of economic and monetary union in the Community provides in particular for a gradual widening of tax exemption granted to individuals when crossing intra-Community frontiers;

Whereas it is appropriate to make passenger travel between Member States easier by means of an increase in the exemption from turnover tax and excise duty provided for in the Council Directive of 28 May 1969; whereas, to that end and in order to reduce controls, the declarations to be made by travellers crossing intra-Community frontiers should henceforth be simplified where the value or quantity of goods in their possession does not exceed their duty-free entitlements;

Whereas persons residing near intra-Community frontiers and the crew of the means of transport used in international travel should henceforth be made eligible for certain exemptions;

Whereas, in view of the technical problems which have arisen from the application of Article 6 of the abovementioned Directive, certain problems relating to the remission of tax at the retail trade stage should be dealt with;

Whereas, having regard to the progressive establishment of an economic area whose characteristics are similar to those of a domestic market embracing the Community, Member States will have to abolish, in respect of intra-Community trade, the systems now in force involving the remission of tax on exportation and the imposition of tax on importation and also therefore the remission of turnover tax and excise duty at the retail trade stage.

Whereas, however, the complete abolition of such remission of tax can only be achieved gradually; whereas, as a first step, certain common rules applicable to persons residing in the Community should be laid down relating to standard cases of remission of tax at the retail trade stage;

HAS ADOPTED THIS DIRECTIVE:

Article 1

Article 2 of the Council Directive of 28 May 1969 shall be amended as follows:

[1] OJ No L 133, 4.6.1969, p. 6.
[2] OJ No C 28, 27.3.1971, p. 1.

(a) in paragraph 1, the words
'one hundred and twenty-five units of account'
shall be substituted for
'seventy-five units of account';

(b) in paragraph 2, the words
'thirty units of account'
shall be substituted for
'twenty units of account';

(c) in paragraph 3, the words
'one hundred and twenty-five units of account'
shall be substituted for
'seventy-five units of account'.

Article 2

The following shall be substituted for Article 4 (1) of the Council Directive of 28 May 1969:

'1. Without prejudice to national provisions applicable to travellers whose residence is outside Europe, each Member State shall set the following quantitative limits for exemptions from turnover tax and excise duty of the goods listed below:

	I *Travel between third countries and the Community*	II *Travel between Member States*
(a) tobacco products:		
cigarettes	200	300
or		
cigarillos (cigars of a maximum weight of 3 grammes each)	100	150
or		
cigars	50	75
or		
smoking tobacco	250 g	400 g
(b) alcoholic beverages		
— distilled beverages and spirits of an alcoholic strength exceeding 22°	1 standard bottle (0·70 to 1 litre)	to a total of 1·5 litres
or		
distilled beverages and spirits, and aperitifs with a wine or alcohol base of an alcoholic strength not exceeding 22°; sparkling wines, fortified wines	to a total of 2 litres	to a total of 3 litres
and		
— still wines	to a total of 2 litres	to a total of 3 litres
(c) perfumes	50 g	75 g
and		
toilet waters	¼ litre	⅜ litre
(d) coffee	500 g	750 g
or		
coffee extracts and essences	200 g	300 g
(e) tea	100 g	150 g
or		
tea extracts and essences	40 g	60 g'

Article 3

The following paragraphs shall be substituted for Article 5 (1) of the Council Directive of 28 May 1969 and the former paragraphs 2 and 3 of that Article shall be renumbered paragraphs 6 and 7:

'1. Member States may reduce the value and/or quantity of the goods which may be admitted duty free, down to one-tenth of the values and/or quantities provided for in Articles 2 and 4 (1), column II, where such goods are imported from another Member State by persons resident in the frontier zone of the importing Member State or in that of the neighbouring Member State, by frontier zone workers, or by the crew of the means of transport used in international travel.

However, duty free entitlement in respect of the goods listed below may be as follows:

(a) Tobacco products:	
Cigarettes	40
or	
cigarillos (cigars of a maximum weight of 3 grammes each)	20
or	
cigars	10
or	
smoking tobacco	50 g
(b) alcoholic beverages:	
— distilled beverages and spirits, of an alcoholic strength exceeding 22°	0·25 litre
or	
— distilled beverages and spirits, and aperitifs with a wine or alcohol base of an alcoholic strength not exceeding 22°; sparkling wines, fortified wines	0·50 litre
and	
— still wines	0·50 litre

2. Member States may set lower limits as to value and/or quantity for the exemption of goods when they are imported from a third country by persons resident in the frontier zone, by frontier zone workers or by the crew of the means of transport used in travel between third countries and the Community.

3. Member States may set lower limits as to value and/or quantity for the exemption of goods when they are imported from another Member State by members of the armed forces of a Member State, including civilian personnel and spouses and dependent children, stationed in another Member State.

4. The restrictions in paragraphs 1 and 2 shall not apply where the persons referred to therein produce evidence to show that they are going beyond the frontier zone or that they are not returning from the frontier zone of the neighbouring Member State or third country.

These restrictions shall, however, still apply to frontier zone workers and to the crew of the means of transport used in international travel where they import goods when travelling in the course of their work.

5. For the purposes of paragraphs 1, 2 and 4:

— 'frontier zone' means a zone which, as the crow flies, does not extend more than 15 kilometres from the frontier of a Member State. Each Member State must however include within its frontier zone the local administrative districts part of the territory of which lies within the zone;

— 'frontier zone worker' means any person whose normal activities require that he should go to the other side of the frontier on working days.'

Article 4

Article 6 of the Council Directive of 28 May 1969 shall be amended as follows:

(a) The text of that Article shall become paragraph 1 thereof;

(b) The following paragraphs shall be added:

'2. Without prejudice to rules relating to sales made at airport shops under customs control and on board aircraft, Member States may, as regards sale at the retail trade stage, authorize in the cases and under the conditions provided for in paragraphs 3 and 4 the remission of turnover tax on goods carried in the personal luggage of travellers leaving a Member State. No remission may be granted in respect of excise duty.

3. As regards travellers whose domicile or habitual residence is situated outside the Community, each Member State may set limits and lay down conditions of application in respect of tax remission.

As regards travellers whose domicile, habitual residence or place of work is situated in a Member State, there may be remission of tax only in respect of items the individual value of which, inclusive of tax, exceeds the amount specified in Article 2 (1).

Member States may increase that amount. They may furthermore exclude their residents from the benefit of this tax remission.

4. Remission of tax shall be subject:

(a) in the cases referred to in the first subparagraph of paragraph 3, to production of a copy of the invoice or other document in lieu thereof, endorsed by the customs of the exporting Member States to certify exportation of the goods;

(b) in the cases referred to in the second subparagraph of paragraph 3, to production of a copy of the invoice or other document in lieu thereof, endorsed by the customs of the Member State where final importation takes place or by another authority of that Member State competent in matters of turnover tax.

5. For the purposes of this Article:

— 'domicile or habitual residence' means the place entered as such in a passport, identity card or, failing those, other identity documents which the exporting Member State recognizes as valid;

— 'item' means a thing or a group of things which normally constitute a whole.'

Article 5

The following Article shall be inserted after Article 7 of the Council Directive of 28 May 1969:

'*Article 7a*

Member States shall, within the framework of intra-Community travel, take the necessary steps to enable travellers to confirm tacitly or by a simple oral declaration that they are complying with the authorized limits and conditions for the duty-free entitlements.'

Article 6

1. Member States shall put into operation the measures required to comply:

— with Articles 1, 2, 3 and 5 of this Directive, not later than 1 July 1972;

— with Article 4 of this Directive, not later than 1 January 1973.

2. Each Member State shall inform the Commission of the measures which it adopts to implement this Directive.

The Commission shall communicate such information to the other Member States.

Article 7

This Directive is addressed to the Member States.

Done at Luxembourg, 12 June 1972.

For the Council

The President

J. DUPONG

. Fifth Council Directive of 4 July 1972
(72/250/EEC)
(O.J. No L 162 of 18.7.1972, p. 18)

The text is not available in the english language

31.12.72 Official Journal of the European Communities No L 303/1.

COUNCIL DIRECTIVE

of 19 December 1972

on taxes other than turnover taxes which affect the consumption of manufactured tobacco

(72/464/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community and in particular Articles 99 and 100 thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament,

Having regard to the Opinion of the Economic and Social Committee,

Whereas the objective of the Treaty is to establish an economic union within which there is healthy competition and whose characteristics are similar to those of a domestic market; and, as regards manufactured tobacco, achievement of this aim presupposes that the application in the Member States of taxes affecting the consumption of products in this sector does not distort conditions of competition and does not impede their free movement within the Community;

Whereas the taxes which at present affect the consumption of manufactured tobacco do not meet these requirements since these taxes are not neutral from the point of view of competition and often constitute serious obstacles to the interpenetration of markets;

Whereas it is therefore in the interest of the Common Market that the rules for taxes affecting the consumption of manufactured tobacco should be harmonized, in order progressively to eliminate from the present systems those factors which are likely to hinder free movement and distort the conditions of competition, whether at national level or at Community level;

Whereas the Council Directives of 11 April 1967[1] concern the harmonization of turnover taxes;

Whereas, as far as excise duties are concerned, harmonization of structures must, among other things, result in competition in the different categories of manufactured tobacco belonging to the same group not being distorted by the effects of the charging of the tax and, consequently, in the opening of the national markets of the Member States;

Whereas, as regards cigarettes, the above-mentioned objective is best achieved by a system which provides for a degression in the incidence of the tax and whereas for this purpose, the tax imposed on these products should consist of a proportional excise duty combined with a specific excise duty, the amount of which is fixed by each Member State in accordance with Community criteria;

Whereas the structures for excise duties on manufactured tobacco should be harmonized by stages;

Whereas the imperative needs of competition imply a system of freely formed prices for all groups of manufactured tobacco;

HAS ADOPTED THIS DIRECTIVE:

TITLE I

General principles

Article 1

1. The structure of the excise duty to which the Member States subject manufactured tobacco shall be harmonized in several stages.

[1] OJ No 71, 14.4.1967, pp. 1301/67 and 1303/67.

2. This Directive lays down general principles for this harmonization, as well as the special criteria applicable during the first stage of harmonization.

3. On the basis of Articles 99 and 100 of the Treaty, the Council shall, at least one year before the expiry of the period provided for in Article 7 (1), adopt a Directive laying down the special criteria applicable during the following stage or stages.

4. The transition from one stage of harmonization to the next shall be decided on by the Council on a proposal from the Commission, taking into account the effects produced during the stage in progress by the measures introduced by the Member States into their system of excise duties in order to comply with the provisions applicable during that stage. The transition from one stage to the next may be deferred especially if it is likely to involve disproportionate losses of revenue for a Member State.

Article 2

The Member States shall refrain from subjecting manufactured tobacco to any tax other than the excise duty referred to in Article 1 and the value added tax provided for in the Council Directive of 11 April 1967.[1]

Article 3

1. The following shall be considered to be manufactured tobacco:

(a) cigarettes

(b) cigars and cigarillos

(c) smoking tobacco

(d) snuff

(e) chewing tobacco.

2. The Council shall, on a proposal from the Commission, adopt the provisions necessary to determine the way in which manufactured tobacco should be defined and classified in groups.

Article 4

1. In each Member State national and imported cigarettes shall be subjected to a proportional excise duty calculated on the maximum retail selling price, including Customduties, and also to a specific excise duty calculated per unit of the product.

2. The rate of the proportional excise duty and the amount of the specific excise duty must be the same for all cigarettes.

3. At the final stage of harmonization of structures, the same ratio shall be established for cigarettes in all Member States between the proportional excise duty and the specific excise duty, in such a way that the range of retail selling prices reflects fairly the difference in the manufacturers' delivery prices.

4. Where necessary, the excise duty on cigarettes may include a minimum tax component, the ceiling for which shall be determined for each stage by the Council on a proposal from the Commission.

Article 5

1. Manufacturers and importers shall be free to determine the maximum retail selling price for each of their products. This provision may not, however, hinder implementation of the national systems of legislation regarding the control of price levels or the observance of imposed prices.

2. However, in order to facilitate the levying of the excise duty, the Member States may, for each group of manufactured tobacco, fix a scale of retail selling prices on condition that each scale has sufficient scope and variety to correspond in fact with the variety of Community products. Each scale shall be valid for all the products belonging to the group of manufactured tobacco which it concerns, without distinction on the basis of quality, presentation, the origin of the products or of the materials used, the characteristics of the undertakings or of any other criterion.

Article 6

1. At the final stage at the latest the rules for collecting the excise duty shall be harmonized. During the preceding stages the excise duty shall, in principle, be collected by means of tax stamps. If they collect the excise duty by means of tax stamps, the Member States shall be obliged to make these stamps available to manufacturers and dealers in the other Member States. If they collect the excise duty by other means, the Member States shall ensure that no obstacle, either administrative or technical, affects trade between the Member States on that account.

[1] OJ No 71, 14.4.1967, p. 1301/67.

2. Importers and national manufacturers of manufactured tobacco shall be subject to the same system as regards the detailed rules for levying and paying the excise duty.

TITLE II

Special provisions applicable during the first stage of harmonization

Article 7

1. Subject to Article 1 (4), the first stage of harmonization of the structures of the excise duty on manufactured tobacco shall cover a period of 24 months from 1 July 1973.

2. During this first stage of harmonization Articles 8 to 10 shall be applicable.

Article 8

1. The amount of the specific excise duty levied on cigarettes shall be established for the first time by reference to cigarettes in the most popular price category according to the data available on 1 January 1973.

2. Without prejudice to the solution to be finally adopted regarding the ratio between the specific component and the proportional component, this amount may not be lower than 5% or higher than 75% of the aggregate amount of the proportional excise duty and the specific excise duty levied on these cigarettes.

3. If the excise duty on the price class referred to above is amended after 1 January 1973, the amount of the specific excise duty shall be established by reference to the new tax burden on the cigarettes referred to in paragraph 1.

Article 9

In derogation from Article 4 (1), each Member State may exclude Customs duties from the basis of calculation of the proportional excise duty on cigarettes.

Article 10

The Member States may levy on cigarettes a minimum excise duty the amount of which may not, however, be higher than 90% of the aggregate amount of the proportional excise duty and the specific excise duty which they levy on the cigarettes referred to at Article 8 (1).

TITLE III

Final provisions

Article 11

Where necessary, the Council shall, on a proposal from the Commission, adopt provisions for the application of this Directive.

Article 12

1. The Member States shall bring into force the provisions laid down by law, regulation or administrative action necessary to comply with the provisions of this Directive not later than 1 July 1973, and shall inform the Commission immediately that they have done so.

2. The 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 13

This Directive is addressed to the Member States.

Done at Brussels, 19 December 1972.

For the Council
The President
T. WESTERTERP

COMMISSION OPINION

of 5 January 1973

addressed to the Government of the French Republic with respect to the Article in the draft Finance Law 1973 concerning the special tax on certain road vehicles

(73/25/EEC)

In accordance with Article 1 of the Council Decision of 21 March 1962 instituting a procedure for prior examination and consultation in respect of certain laws, regulations and administrative provisions concerning transport proposed in Member States [1], the French Government in a letter of 29 November 1972 from the Office of its Permanent Representative to the European Communities transmitted to the Commission the text of the Article in the draft Finance Law 1973 concerning the special tax on certain road vehicles.

The letter from the Office of the Permanent Representative reached the Commission on 6 December 1972. The French Government also communicated the draft text to the other Member States.

Pursuant to Article 2, of the Council Decision the Commission hereby delivers the following Opinion.

1. The Article in question in the draft Finance Law 1973 amends the provision of Article 16 of the Finance Law 1968 instituting a special tax on certain road vehicles, as amended by Article 25 of the Finance Law 1971, by making new arrangements as to the phasing of the increase in the rates of the tax on certain two-axle vehicles for the carriage of goods by road where the permissible total laden weight of the vehicle is over 18·5 tons.

2. The Commission notes that the intended provisions are to the effect that the increase in the tax with respect to the types of vehicle in question is to be phased over a longer period, and more particularly that the date on which the increase becomes operative is to be postponed from 1 January 1974 to 1 January 1977. They do not affect the purport and basic principles of the special tax on certain road vehicles as instituted by Law No 67-114 of 21 December 1967 and amended by Article 16 of the Finance Law 1968. Concerning these instruments the Commission made its views known in the Recommendation of 16 November 1967 [2] and Opinion of 2 December 1970 [3] which it addressed to the French Government.

3. Subject to the points made by the Commission on these two previous occasions, which still hold good, the intended provisions do not call for comment.

4. The Commission is informing the other Member States of this Opinion.

Done at Brussels, 5 January 1973.

For the Commission

The President

S. L. MANSHOLT

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(1) OJ No 23, 3. 4. 1962, p. 720/62.

(2) OJ No 293, 2. 12. 1967, p. 7.

(3) OJ No L 274, 18. 12. 1970, p. 27.

I

(Acts whose publication is obligatory)

REGULATION (ECSC, EEC, EURATOM) No 906/73 OF THE COUNCIL

of 2 April 1973

amending Regulation (EEC, Euratom, ECSC) No 2/71 implementing the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community and in particular Article 78 (F) thereof ;

Having regard to the Treaty establishing the European Economic Community, and in particular Article 209 thereof ;

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 183 thereof ;

Having regard to the Treaty establishing a single Council and a single Commission of the European Communities, and in particular Article 20 thereof ;

Having regard to the Decision of 21 April 1970 [1] on the replacement of financial contributions from Member States by the Communities' own resources and in particular Article 6 (2) thereof ;

Having regard to the proposal from the Commission ;

Having regard to the Opinion of the European Parliament ;

Whereas Council Regulation (EEC, Euratom, ECSC) No 2/71 [2] of 2 January 1971 implementing the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources makes provision for controlling, making available to the Commission and paying over the Communities' own resources and lays down the rules for applying Articles 3 (3) and 4 of the Decision of 21 April 1970 ;

Whereas it is necessary to reduce the periods prescribed in Articles 6 (2) and 9 (1) of the said Regulation to ensure a constant rate of payment of contributions from Member States and of the Communities' own resources and to make adequate provision for the Communities' estimated cash requirements within the framework of budgetary expenditure ;

HAS ADOPTED THIS REGULATION :

Article 1

The first subparagraph Article 6 (2) of Regulation (EEC, Euratom, ECSC) No 2/71 shall be replaced by the following :

'The established entitlements shall be entered in those accounts no later than the fifteenth of the second month following the month during which the entitlements were established.'

Article 2

Article 9 (1) of the Regulation referred to in Article 1 shall be replaced by the following :

'The entry referred to in Article 7 (1) shall be made no later than the fifteenth of the second month following the month during which the entitlement was established.'

Article 3

This Regulation shall enter into force on 1 October 1973.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Luxembourg, 2 April 1973.

For the Council

The President

R. VAN ELSLANDE

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(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No L 3, 5. 1. 1971, p. 1.

18. 4. 73 Official Journal of the European Communities No L 103/13

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 9 April 1973

varying the field of application of the reduced rate of capital duty provided for in respect of certain company reconstruction operations by Article 7 (1) (b) of the Directive concerning indirect taxes on the raising of capital

(73/79/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament;

Having regard to the Opinion of the Economic and Social Committee;

Whereas Article 7 (1) (b) of the Council Directive of 17 July 1969 (1) concerning indirect taxes on the raising of capital provides for the application of a reduced rate of capital duty to certain company reconstruction operations involving the transfer of assets;

Whereas provision should be made to permit the extension of such reduced rate to transactions whereby a company which is in the process of being formed or is already in existence acquires, in exchange for its own shares, a proportion of the shares in another company such that it obtains complete control of such other company; whereas such transactions should be regarded in the same light, from the economic point of view, as the reconstruction operations to which Article 7 (1) (b) applies;

(1) OJ No L 249, 3. 10. 1969, p. 25.

HAS ADOPTED THIS DIRECTIVE:

Article 1

The following shall be inserted in Article 7 (1) of the said Directive:

'(bb) the rate of capital duty may be reduced by 50 % or more where a capital company which is in the process of being formed or which is already in existence acquires shares representing at least 75 % of the issued share capital of another capital company. Where the said percentage is reached by means of two or more transactions, the reduced rate shall apply only to the transaction whereby this percentage is reached and to subsequent transactions.

However, the amount of the duty which by virtue of this provision is not charged shall become due if the company which acquires the shares does not retain, for a period of five years from the date of the transaction qualifying for the reduced rate, at least 75 % of the share capital of that company and all the shares of the other company which it holds following that transaction, including shares acquired before the transaction and held at the time thereof. However, the reduced rate shall remain applicable if during the relevant period the shares in question are transferred in the course of a transaction qualifying for the reduced rate pursuant to the foregoing sub-subparagraph or to subparagraph (b) of this paragraph or on liquidation of the company which acquired the shares.

This reduction shall be subject to the condition that :

— the consideration for the shares acquired shall consist exclusively of the allocation of shares in the acquiring company, although the Member States may extend application of the reduction to cases where the consideration for the shares acquired consists of the allocation of shares in the acquiring company together with a payment in cash not exceeding 10 % of the nominal value of these shares,

— both companies taking part in the transaction, the company acquiring the shares and the company whose shares are acquired, have their effective centre of management or their registered office within the territory of a Member State.'

Article 2

Member States shall ensure that the texts of the main provisions of internal law which they subsequently adopt in the field covered by this Directive are forwarded to the Commission.

Article 3

This Directive is addressed to the Member States.

Done at Luxembourg, 9 April 1973.

For the Council

The President

A. LAVENS

18. 4. 73 Official Journal of the European Communities No L 103/15

COUNCIL DIRECTIVE

of 9 April 1973

fixing common rates of capital duty

(73/80/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament;

Having regard to the Opinion of the Economic and Social Committee;

Whereas Article 7 (2) of the Council Directive of 17 July 1969 [1] concerning indirect taxes on the raising of capital, as amended by the Directive of 9 April 1973 [2], provides that the Commission is to submit a proposal to the Council before 1 January 1971 to enable the Council to determine the common rates of capital duty;

Whereas, to minimize obstacles to the development and functioning of a common market for capital, the rate of the capital duty provided for in the said Article 7 should be fixed as low as possible, account nonetheless being taken of the Member States' budgetary requirements;

Whereas the reduced rate provided for in paragraph 1 (b) and (bb) of the said Article 7 in respect of certain company reconstruction operations must be fixed sufficiently low to eliminate any cumulative effects of capital duty; whereas a rate of 0·50 % meets this requirement; whereas, however, to encourage such reconstruction operations as far as possible, the Member States should be given the option of applying a rate lower than 0·50 %;

Whereas the Member States should be given sufficient time to introduce the common rates of capital duty;

HAS ADOPTED THIS DIRECTIVE:

Article 1

The rate of the capital duty provided for in Article 7 of the Council Directive of 17 July 1969 concerning indirect taxes on the raising of capital (69/335/EEC) shall, with effect from 1 January 1976, be 1 %.

Article 2

The reduced rates provided for in Article 7 (1) (b) and (bb) of the same Directive shall, with effect from 1 January 1976, be any rate between 0 % and 0·50 %.

Article 3

This Directive is addressed to the Member States.

Done at Luxembourg, 9 April 1973.

For the Council

The President

A. LAVENS

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[1] OJ No L 249, 3. 10. 1969, p. 25.
[2] See p. 13 this Official Journal.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 27 February 1973

authorizing the United Kingdom of Great Britain and Northern Ireland to retain the customs duties of a fiscal nature or the fiscal element of these duties on certain products

(Only the English text is authentic)

(73/199/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty [1] concerning the Accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland to the European Economic Community and the European Atomic Energy Community, and to the Act [2] annexed thereto, hereafter called the 'Act', and in particular Article 38 thereof;

Whereas the United Kingdom of Great Britain and Northern Ireland has asked the Commission for authority to retain until 31 December 1975 the customs duties of a fiscal nature or the fiscal element of these duties on beers, wines, spirits, hydrocarbon oils, matches and mechanical lighters, and until 31 December 1977 on the customs duties of a fiscal nature or the fiscal element of these duties on tobacco;

Whereas under Article 38 (3) of the Act, when the Commission finds that in a new Member State there is serious difficulty in replacing a customs duty of a fiscal nature or the fiscal element of such a duty, it shall authorize that State, following a request made before 1 February 1973, to retain that duty or that element, provided the State abolishes it by 1 January 1976 at the latest; whereas the Commission shall determine, before 1 March 1973, the amount of the protective element, after consultation with the Member State;

Whereas according to paragraph 4 of Article 38 referred to above, the Commission may authorize the United Kingdom to retain the customs duties of a fiscal nature or the fiscal element of these duties on tobacco for two additional years if, by 1 January 1976, it has not proved possible to convert these duties into internal taxes on manufactured tobacco on a harmonized basis in accordance with Article 99 of the EEC Treaty, either because there are no Community provisions in this field on 1 January 1975 or because the time limit set for the implementation of these Community provisions is later than 1 January 1976;

Whereas the introduction on 1 April 1973 of the Community system of value added tax involves the sectors concerned in special responsibilities, particularly in the field of pricing and administration;

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[1] OJ No L 73, 27. 3. 1972, p. 5.
[2] OJ No L 73, 27. 3. 1972, p. 14.

Whereas the implementation of the regulations setting up a common marketing organization in certain sectors, particularly for wines, will aggravate the difficulties experienced by the business enterprises concerned as a result of the responsibilities mentioned above;

Whereas the harmonization within the Community of the excise duty structures for certain of the products mentioned above is still being worked out; whereas in these circumstances the United Kingdom makes the point that, if the customs duties of a fiscal nature or the fiscal element of these duties had to be converted in the near future, it could be placed in the position where it was necessary to reshape its system a second time within a fairly short period in order to comply with the obligations arising from Community law; whereas such a conversion in several stages would produce unnecessary difficulties in particular for the trades concerned;

Whereas, so far as tobacco is concerned, it is pointed out that the Council Directive of 19 December 1972 about charges other than turnover taxes applying to the consumption of manufactured tobacco provides that the Member States are bound to bring into force the provisions in their law, regulations and administrative action which are necessary to comply with it by 1 July 1973 at the latest; whereas nevertheless, the same Directive makes provision for the United Kingdom to defer the entry into force of the said provisions until 31 December 1977 at the latest;

Whereas on the basis of the factors mentioned above it is reasonable to find that for the products in question there would be serious difficulty in the United Kingdom in replacing the customs duties of a fiscal nature or the fiscal element of these duties by internal taxes; whereas, moreover, as regards tobacco, the conditions for the application of Article 38 (4), of the Act are met;

Whereas the United Kingdom Government has been consulted for the purpose of fixing the protective element of the duties falling on the products in question; whereas, on the basis of the data supplied by the British Government in the course of this consultation, it seems appropriate to take into consideration as criteria for the determination of the protective elements in relation to the different products either the amount of the excise duty chargeable on the national product of a similar kind or the rates in the United Kingdom Customs Tariff applicable to trade with EFTA countries or those applicable to Commonwealth countries;

This Decision is without prejudice to the application of Article 95 of the EEC Treaty;

HAS ADOPTED THIS DECISION:

Article 1

The United Kingdom of Great Britain and Northern Ireland shall be authorized to retain the customs duties of a fiscal nature or the fiscal element in these duties which are contained in the Table annexed to this Decision provided that these duties or these elements are abolished for products other than tobacco by 1 January 1976 at the latest and for tobacco by 1 January 1978 at the latest.

Article 2

The amounts of the protective element of the duties chargeable on the products referred to in Article 1 are contained in the Table annexed to this Decision.

Article 3

This Decision is addressed to the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 27 February 1973.

For the Commission

The President

François-Xavier ORTOLI

ANNEX

Rates of customs duties of a fiscal nature or of the fiscal element of such duties, referred to in Article 1, and of the protective elements referred to in Article 2

No in UK Customs Tariff on 1 January 1972	Description of goods	Rate of protective element			Rate of fiscal element
		Full	EFTA	Commonwealth	
(1)	(2)	(3)	(4)	(5)	(6)
22.03	Beer made from malt:				
	A. Of any description (other than mum, spruce, black beer, Berlin white beer or other preparations of a similar character, of an original gravity of 1200° or more) where the worts thereof were before fermentation of a gravity:				
	I. Of 1030° or less	£ 1·0000/36 gallons	Free	Free	£ 10·3750/36 gallons
	II. Exceeding 1030°				
	— For the first 1030°	£ 1·0000/36 gallons	Free	Free	£ 10·3750/36 gallons
	— For every additional degree in excess of 1030°	Free	Free	Free	£ 0·4400/36 gallons
22.05	Wine of fresh grapes (including grape must with fermentation arrested by the addition of alcohol):				
	A. Light wine (a):				
	1. Still:				
	a) Not in bottle	£ 0·1250/gallon	£ 0·1250/gallon	£ 0·0250/gallon	£ 1·4875/gallon
	b) In bottle	£ 0·2500/gallon	£ 0·2500/gallon	£ 0·1000/gallon	£ 1·4875/gallon
	2. Sparkling	£ 0·1000/gallon	£ 0·1000/gallon	Free	£ 2·1375/gallon
	B. Wine of the Republic of Ireland exceeding 27° but not exceeding 32° of proof spirit:				
	1. Still	not applicable	not applicable	not applicable	£ 1·7375/gallon
	2. Sparkling	not applicable	not applicable	not applicable	£ 2·0375/gallon

(a) Light wines are regarded as wines, irrespective of origin, whose maximum alcoholic content does not exceed 26·4° proof spirit.

COMMISSION DECISION

of 6 March 1973

authorizing Ireland to retain the customs duties of a fiscal nature or the fiscal element of these duties on certain products

(Only the English text is authentic)

(73/200/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty [1] concerning the Accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland to the European Economic Community and the European Atomic Energy Community, and to the Act [2] annexed thereto, hereafter called the 'Act', and in particular Article 38 thereof;

Whereas Ireland has asked the Commission for authority to retain until 31 December 1975 the customs duties of a fiscal nature or the fiscal element of these duties on beers, spirits, certain hydrocarbon oils, tobacco, wines, table waters, cider, perry, matches, tyres for vehicles and certain machines, certain motor vehicles and certain parts and accessories therefor;

Whereas under Article 38 (3) of the Act, when the Commission finds that in a new Member State there is serious difficulty in replacing a customs duty of a fiscal nature or the fiscal element of such a duty, it shall authorize that State, following a request made before 1 February 1973, to retain that duty or that element, provided the State abolishes it by 1 January 1976 at the latest; whereas the Commission shall determine, before 1 March 1973, the amount of the protective element, after consultation with the Member State;

Whereas by reason of the diversity and complexity of the existing customs and fiscal legislation in Ireland the replacement of customs duties of a fiscal nature or the fiscal element of such duties by internal taxes requires a radical revision of such legislation or even, for certain products, the setting up of an entirely new system of taxation; whereas the administrations concerned could not in the near future undertake the work involved;

Whereas the implementation of the Regulations setting up a common marketing organization in certain sectors, particularly for wines, will aggravate the difficulties experienced by the business enterprises concerned as a result of the responsibilities mentioned above;

Whereas the harmonization within the Community of the excise duty structures for certain of the products mentioned above is still being worked out; whereas in these circumstances Ireland makes the point that, if the customs duties of a fiscal nature or the fiscal element of these duties had to be converted in the near future, it could be placed in the position where it was necessary to reshape its system a second time within a fairly short period in order to comply with the obligations arising from Community law; whereas such a conversion in several stages would produce unnecessary difficulties;

Whereas on the basis of the factors mentioned above it is reasonable to find that for the products in question there would be serious difficulty in Ireland in replacing the customs duties of a fiscal nature or the fiscal element of these duties by internal taxes;

Whereas the Irish Government has been consulted for the purpose of fixing the protective element of the duties falling on the products in question; whereas, on the basis of the data supplied by the Irish Government in the course of this consultation, it seems appropriate to take into consideration as criteria for the determination of the protective elements in relation to the different products either the amount of the excise duty chargeable on the national products of a similar kind or the rates in the Customs Tariff of Ireland applicable to trade with

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[1] OJ No L 73, 27. 3. 1972, p. 5.
[2] OJ No L 73, 27. 3. 1972, p. 14.

the United Kingdom of Great Britain and Northern Ireland;

Whereas this Decision is without prejudice to the application of Article 95 of the EEC Treaty;

HAS ADOPTED THIS DECISION:

Article 1

Ireland shall be authorized to retain the customs duties of a fiscal nature or the fiscal element in these duties for the products listed in the Table annexed to this Decision provided that these duties or these elements are abolished by 1 January 1976 at the latest.

Article 2

The amounts of the protective element of the duties chargeable on the products referred to in Article 1 are contained in the Table annexed to this Decision.

Article 3

This Decision is addressed to Ireland.

Done at Brussels, 6 March 1973.

For the Commission

The President

François-Xavier ORTOLI

ANNEX

Rates of customs duties of a fiscal nature or of the fiscal element of such duties, referred to in Article 1, and of the protective elements referred to in Article 2

No in Customs Tariff of Ireland on 1 January 1972	Description of goods	Rate of protective element			Rate of fiscal element
		Full	Preferential	Special preferential	
(1)	(2)	(3)	(4)	(5)	(6)
Special charging provision No 2 (a)	**Food and drink and products intended for the manufacture of food and drink:**				
	— Tariff heading No 22.08 A	£ 4·8154/proof gallon	£ 4·6904/proof gallon	£ 4·6904/proof gallon	£ 15·3516/proof gallon
	— Tariff heading No 22.08 B	£ 4·8154/proof gallon	£ 4·6904/proof gallon	£ 4·6904/proof gallon	£ 15·4766/proof gallon
	— Tariff heading No 22.09 A 1)	£ 6·4990/liquid gallon	£ 6·3320/liquid gallon	£ 6·3320/liquid gallon	£ 20·7240/liquid gallon
	— Tariff heading No 22.09 A 2)	£ 6·4990/liquid gallon	£ 6·3320/liquid gallon	£ 6·3320/liquid gallon	£ 20·8910/liquid gallon
	— Tariff heading No 22.09 B 1)	£ 4·8154/proof gallon	£ 4·6904/proof gallon	£ 4·6904/proof gallon	£ 15·3516/proof gallon
	— Tariff heading No 22.09 B 2)	£ 4·8154/proof gallon	£ 4·6904/proof gallon	£ 4·6904/proof gallon	£ 15·4766/proof gallon
	Goods other than food and drink and products intended for the manufacture of food and drink (a):				
	— Tariff heading No 22.08 A	£ 20·1670/proof gallon	£ 20·0420/proof gallon	£ 20·0420/proof gallon	Free
	— Tariff heading No 22.08 B	£ 20·2920/proof gallon	£ 20·1670/proof gallon	£ 20·1670/proof gallon	Free
	— Tariff heading No 22.09 A 1)	£ 27·2230/liquid gallon	£ 27·0560/liquid gallon	£ 27·0560/liquid gallon	Free
	— Tariff heading No 22.09 A 2)	£ 27·3900/liquid gallon	£ 27·2230/liquid gallon	£ 27·2230/liquid gallon	Free
	— Tariff heading No 22.09 B 1)	£ 20·1670/proof gallon	£ 20·0420/proof gallon	£ 20·0420/proof gallon	Free
	— Tariff heading No 22.09 B 2)	£ 20·2920/proof gallon	£ 20·1670/proof gallon	£ 20·1670/proof gallon	Free

(a) Including recognized medical preparations based on denatured spirits.

5. 3. 74 Official Journal of the European Communities No L 63/19

COUNCIL DIRECTIVE

of 18 February 1974

on stability, growth and full employment in the Community

(74/121/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 103 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament;

Having regard to the Opinion of the Economic and Social Committee;

Whereas the attainment by stages of economic and monetary union in the Community requires the implementation of convergent economic policies of which the key principle is the achievement of stability, growth and full employment in the Community;

Whereas procedures for coordinating economic policies have been organized, in this connection, at Community level, particularly in the Council Decision of 18 February 1974 [1] on the attainment of a high degree of convergence of the economic policies of the Member States of the European Economic Community;

Whereas, to be in a position to meet the requirement of such coordination and in particular to be able to pursue compatible objectives at Community level with regard to stability, growth and full employment, each Member State must possess an adquate set of economic policy instruments;

Whereas such instruments must be available and ready for prompt use by the competent authorities of the Member States if they are to control short-term economic developments and keep these in line with the guidelines established at Community level,

HAS ADOPTED THIS DIRECTIVE:

Article 1

In order to achieve the objectives of price stability, external balance, growth and full employment in the Community, each Member State shall implement its short- and medium-term economic policies in accordance with the guidelines adopted by the Council pursuant to the Council Decision of 18 February 1974 on the attainment of a high degree of convergence of the economic policies of the Member States of the European Economic Community.

Article 2

When they take major measures of economic policy in order to achieve the objectives set out in Article 1, Member States shall make explicit reference to the guidelines adopted by the Council.

Article 3

The Governments of the Member States shall, according to their own arrangements, confer with the representatives of the main economic and social groups on the broad lines of economic policy.

Article 4

In order to establish medium-term economic programmes for the Community, each Member State shall prepare medium-term economic forecasts accompanied by information on the appropriate means to be used to promote a pattern of development in conformity with the guidelines specified in Article 1.

Article 5

Each Member State shall adopt the provisions necessary to enable the public authorities, if the need arises and for a limited period, to slow down or accelerate the rate of public spending and to modify direct or indirect taxes within not more than 90 days.

Article 6

Each Member State shall draw up public investment programmes covering a five-year period. Implementation of the programmes shall be in accordance with the requirements of current economic activity, within the framework of public expenditure.

Article 7

Each Member State shall take the measures necessary (where they do not as yet exist) to enable the competent authorities, without prior authorization, temporarily to freeze the yield of excess tax revenue or of loans, and to release such funds at a later date.

[1] See p. 16 of this Official Journal.

Article 8

Member States shall ensure that the management of the finances of local authorities and, where appropriate, of social security agencies contributes to the attainment of the objectives and to the implementation of the guidelines referred to in Article 1. They shall as far as necessary provide themselves with the means needed to enable the indebtedness of such authorities and agencies to be controlled.

Article 9

Member States shall take the measures necessary to enable them to take prompt action on the various elements covered by the policy of the monetary authorities, particularly money supply, bank liquidity, credit and interest rates.

For this purpose, Member States shall confer upon their monetary authorities, in so far as the latter do not already have them, at least the instruments and powers to enable them to apply, where necessary, the following measures :

— imposition or modification of reserve ratios applying to the liabilities of monetary institutions ;

— imposition or modification of reserve ratios applying to the credit granted by monetary institutions ;

— recourse to an open market policy with wide scope for action, including the use, as necessary, of short-, medium- and long-term securities ;

— modification of the rediscount ceilings with the central bank ;

— modification of the various intervention rates practised by the monetary authorities.

In addition, the monetary authorities shall, as far as possible, be invested with the instruments and powers enabling them to implement the following measures :

— modification of the borrowing and lending interest rates paid or charged by public credit agencies ;

— imposition or modification of conditions for consumer credit, hire-purchase sales and mortgage credit ;

— quantitative or qualitative credit control.

Article 10

Member States shall, to the extent that they deem it expedient, take the measures necessary to enable them to impose, where necessary, without delay and temporarily, an overall or selective restriction on the rise in prices and incomes.

Article 11

To enable the guidelines which are to adopted by the Council to be drawn up and to enable their application to be monitored, Member States shall ensure that essential information is gathered quickly and shall communicate it to the Commission as soon as it is available.

Article 12

Member States shall take the measures necessary to comply with this Directive within 12 months of its notification. This period shall, however, be extended to two years for the implementation of Articles 5 and 8.

Article 13

This Directive is addressed to the Member States.

Done at Brussels, 18 February 1974.

For the Council

The President

H. SCHMIDT

No L 180/30 Official Journal of the European Communities 3. 7. 74

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 25 June 1974

amending Directive No 72/464/EEC on taxes other than turnover taxes which affect the consumption of manufactured tobacco

(74/318/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament;

Having regard to the Opinion of the Economic and Social Committee;

Whereas Council Directive No 72/464/EEC (1) of 19 December 1972 on taxes other than turnover taxes which affect the consumption of manufactured tobacco, under which the Council is to adopt, before 30 June 1974, a Directive laying down the special criteria applicable after the first stage which, under Article 7 (1), is to cover a period of 24 months from 1 July 1973, subject to Article 1 (4);

Whereas, under Article 1 (4) of the aforesaid Directive, the transition from one stage of harmonization to the next may be deferred;

Whereas in order to fix special criteria applicable during the following stage or stages, for technical reasons it is beforehand necessary, in accordance with Article 3 (2) of the aforesaid Directive, for the Council to adopt, on a proposal from the Commission, the necessary provisions for determining the way in which manufactured tobacco should be defined and classified in groups;

Whereas these provisions have now been incorporated in a proposal from the Commission;

Whereas the special criteria applicable during the following stage or stages must be preceded by further consideration of the conditions in the market in manufactured tobacco in the enlarged Community;

Whereas, accordingly, the first stage needs to be extended by 12 months,

HAS ADOPTED THIS DIRECTIVE:

Article 1

In Article 7 (1) of Directive No 72/464/EEC, the terms 'period of 24 months' shall be replaced by 'period of 36 months'.

Article 2

This Directive is addressed to the Member States.

Done at Luxembourg, 25 June 1974.

For the Council

The President

H. D. GENSCHER

(1) OJ No L 303, 31. 12. 1972, p. 1.

27. 7. 74 Official Journal of the European Communities No L 206/49

COMMISSION RECOMMENDATION

of 17 July 1974

requesting the Member States, with the exception of the Italian Republic, to take special measures in respect of VAT on consumer sales of beef and veal

(74/390/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 155 thereof;

Whereas large stocks of beef and veal have been built up in the Community as the result of intervention buying on the market; whereas the situation is likely to deteriorate during the coming months, as animals are removed from pasture;

Whereas, in view of the price-elasticity of demand for beef and veal, an adequate means of increasing consumption would be to introduce a measure reducing consumer prices;

Whereas, under the Second Council Directive of 11 April 1967 (1) on the approximation of the laws of the Member States concerning turnover taxes the Member States remain free to introduce reduced rates inasmuch as these meet the conditions laid down in Article 9 (2) of the said Directive;

Whereas the objectives set out above could be achieved if the Member States make use of this freedom in respect of the sale of beef and veal at the final marketing stage; whereas, in view of the measures taken in Italy in order to restore the general economic situation of that country, it is not advisable to provide for similar fiscal measures in that Member State;

RECOMMENDS THAT THE MEMBER STATES, WITH THE EXCEPTION OF ITALY:

1. Apply, in the manner specified in Article 9 (2) of the Council Directive of 11 April 1967 on the approximation of the laws of the Member States on turnover taxes, reduced rates of value added tax in respect of supplies of beef and veal (subheadings 02.01 A II a) and 02.06 C I a) of the Common Customs Tariff) by taxable persons to non-taxable persons.

2. Take the necessary steps to ensure that the effect of measures taken pursuant to paragraph 1 is reflected in full in consumer prices.

3. Inform consumers by appropriate means, of the measures taken by them pursuant to this recommendation and of the consequences thereof.

4. Notify the Commission of the measures taken by them pursuant to this recommendation.

Done at Brussels, 17 July 1974.

For the Commission

The President

François-Xavier ORTOLI

(1) OJ No 71, 14. 4. 1967, p. 1303/67.

13. 11. 74 Official Journal of the European Communities No L 303/9

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 7 November 1974

amending Article 5 (2) of Directive 69/335/EEC concerning indirect taxes on the raising of capital

(74/553/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament (1);

Having regard to the Opinion of the Economic and Social Committee (2);

Whereas Article 5 (2) of Council Directive 69/335/EEC (3) of 17 July 1969 concerning indirect taxes on the raising of capital provides that, in the cases referred to in paragraph 1 (a), (b) and (c) thereof, the amount on which capital duty is charged shall not be less than the actual value of the shares in the company allotted or belonging to each member or the nominal amount of these shares if the latter exceeds their actual value;

Whereas the adoption of the actual value of the shares as a minimum basis of taxation does not in some of the above cases conform to the principles on which the harmonized capital duty is based and which aim at introducing a system whereby capital duty is to be charged only on transactions legally constituting a raising of capital and only in so far as such transactions contribute towards strengthening the economic potential of the company,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Article 5 (2) of Directive 69/335/EEC is replaced by the following:

'2. In the cases referred to in paragraph 1 (a) and (b), Member States may base the amount on which to charge capital duty on the actual value of the shares in the company allotted or belonging to each member. This does not apply, to those cases in which contributions are made only in cash. The amount on which duty is charged shall in no circumstances be less than the nominal amount of the shares in the company allotted or belonging to each member.'

Article 2

This Directive is addressed to the Member States.

Done at Brussels, 7 November 1974.

For the Council

The President

A. JARROT

(1) OJ No C 76, 3. 7. 1974, p. 9.
(2) OJ No C 109, 19. 9. 1974, p. 35.
(3) OJ No L 249, 3. 10. 1969, p. 25.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 19 December 1974

on the tax reliefs to be allowed on the importation of goods in small consignments of a non-commercial character within the Community

(74/651/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament (1);

Having regard to the Opinion of the Economic and Social Committee (2);

Whereas the tax impediments at present hindering the dispatch from one Member State to another of small consignments of goods intended for private persons constitute an obstacle to the creation of an economic market with characteristics similar to those of a domestic market; and whereas the elimination of such impediments is the corollory to freedom of movement and freedom of establishment for persons in the Community;

Whereas such impediments should be reduced as far as possible in respect of small consignments from one private person to another in order to assist personal and family contacts between private persons in different Member States,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. Goods dispatched from a Member State in small consignments of a non-commercial character by a private person, wherever may be his permanent or usual residence or his principal place of business, intended for another private person in another Member State shall be allowed relief from turnover taxes and excise duties payable on importation.

2. For the purpose of paragraph 1, small consignments of a non-commercial character mean consignments of goods which:

(a) have been acquired in the Community subject to the taxation normally imposed in the domestic market in one of the Member States and without relief from turnover taxes and/or excise duties;

(b) are not intended for commercial use and appear from their nature and quantity to be intended solely for the personal or family use of the recipient;

(c) are not sent against payment of any kind by the recipient; and

(d) do not have a total value exceeding 40 units of account for each consignment.

3. Notwithstanding the foregoing provisions of this Article, Member States shall have power to

(1) OJ No C 129, 11. 12. 1972, p. 58.
(2) OJ No C 142, 31. 12. 1972, p. 3.

reduce the relief allowed for small consignments for products which are subject to the quantitative limits referred to in Article 4 (1) of Council Directive No 69/169/EEC (1) of 28 May 1969 on the harmonization of provisions laid down by law, regulation or administrative action relating to the relief from turnover taxes and excise duty collected on importation in international passenger traffic, as amended by Council Directive No 72/230/EEC (2), or to exclude those products from the benefit of the said relief.

Article 2

1. Member States shall put into operation the measures necessary to comply with this Directive not later than 1 April 1975.

2. Each Member State shall inform the Commission of the measures it takes to apply this Directive. The Commission shall communicate this information to the other Member States.

Article 3

This Directive is addressed to the Member States.

Done at Brussels, 19 December 1974.

For the Council

The President

J. P. FOURCADE

(1) OJ No L 133, 4. 6. 1969, p. 6.
(2) OJ No L 139, 17. 6. 1972, p. 28.

I

(Information)

COUNCIL

COUNCIL RESOLUTION

of 10 February 1975

on the measures to be taken by the Community in order to combat international tax evasion and avoidance

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the communication of 22 November 1974 from the Commission on the problem of international tax evasion and avoidance;

Whereas practices of tax evasion and tax avoidance reaching beyond national borders of Member States lead to budget losses, violations of the principle of fiscal Justice and distortions of capital movements and of conditions of competition;

Whereas the international nature of the problem means that national measures, whose effect does not extend beyond State boundaries, are insufficient;

Whereas several national tax administrations are already collaborating to this end on the basis of bilateral agreements and whereas such collaboration both within the Community and with third countries should be strengthened and adapted to new forms of tax evasion and avoidance;

Whereas care must be taken to ensure that information exchanged in such collaboration is not disclosed to unauthorized persons, to safeguard within Member States the basic rights and procedural guarantees of citizens and undertakings and to take account of the requirements of those States to preserve secrecy in certain matters. The Member States receiving such information must undertake to use it only for the purpose of making correct assessment for taxes on income or profits or to support a prosecution for failure, by the person concerned, to observe the fiscal law of the receiving State. It must also afford to the information the degree of confidentiality which it had in the State from which it arose;

Considers that it is desirable for action to be taken initially on the points set out below:

(a) the mutual exchange between Member States, whether on request or not, of all information that appears to be of use for making correct assessments for taxes on income or profits, and in particular of information in every case where there appears to be artificial transfer of profits between undertakings in different countries, or where transactions are carried out between undertakings in two Member States through a third country in order to obtain tax advantages, or where the tax has been or may be evaded for any reason whatever;

(b) the need, in order to make this exchange of information more effective, to study possibilities of harmonizing the legal and administrative means available to tax administrations for collecting information and exercising their rights of investigation;

(c) the carrying out of investigations, for making correct assessments for taxes on income or profits, by one State, in compliance with national laws, on behalf of another when the latter State requests it to do so;

(d) the study of the possible provision of facilities for officials of one State to assist within another State in the work of establishing and exploiting facts that will be of use for making correct assessments for taxes on income or profits owed in the first State;

(e) the collaboration with the Commission necessary for the permanent study of cooperation procedures and the exchange of experience in the fields considered, and in particular in the field of artificial transfer of profits within groups of undertakings, with the aim of improving them and of preparing regulations suitable for the Community.

Takes note that the Commission will, within the scope of its powers, take appropriate steps in this sector.

24. 12. 75 Official Journal of the European Communities No L 330/51

COUNCIL DIRECTIVE

of 18 December 1975

amending Directive 72/464/EEC on taxes other than turnover taxes which affect the consumption of manufactured tobacco

(75/786/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament (1);

Having regard to the Opinion of the Economic and Social Committee (2);

Whereas, pursuant to Council Directive 72/464/EEC (3) of 19 December 1972 on taxes other than turnover taxes which affect the consumption of manufactured tobacco, as amended by Directive 74/318/EEC (4), the Council must adopt by 30 June 1975 a Directive laying down the special criteria applicable after the first stage which, under Article 7 (1), covers, subject to Article 1 (4), a period of 36 months from 1 July 1973;

Whereas the Commission has submitted a proposal to the Council on measures necessary to decide how manufactured tobacco should be defined and grouped in accordance with Article 3 (2) of the abovementioned Directive;

Whereas in order to lay down the special cirteria applicable in the following stage or stages, a further examination must be made of the conditions on the market in manufactured tobacco in the enlarged Community;

Whereas it is therefore necessary to extend the first stage for a further 12 months,

HAS ADOPTED THIS DIRECTIVE:

Article 1

In Article 7 (1) of Directive 72/464/EEC, the words 'period of 36 months' shall be replaced by the words 'period of 48 months'.

Article 2

This Directive is addressed to the Member States.

Done at Brussels, 18 December 1975.

For the Council

The President

M. TOROS

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(1) OJ No C 239, 20. 10. 1975, p. 21.
(2) Opinion delivered 29. 10. 1975 (not yet published in the Official Journal).
(3) OJ No L 303, 31. 12. 1972, p. 1.
(4) OJ No L 180, 3. 7. 1974, p. 30.

7. 1. 76 Official Journal of the European Communities No L 2/13

COMMISSION RECOMMENDATION

of 5 December 1975

to the Member States concerning the taxation of wine

(76/2/EEC)

Certain Member States have high excise duties on wine.

Moreover it has come to the Commission's knowledge that certain Member States are intending to introduce, or have recently introduced, a substantial increase in the rate of these excise duties.

It is clear that, in the present situation in the wine sector, high excise duties and, even more so, any increase in these duties, have harmful repercussions on the marketing of wines in the Community.

Pending the adoption by the Council of the proposal from the Commission for a Directive introducing harmonized excise duties on wine at a minimum level of one unit of account per hectolitre, Member States retain the right to modify the rate of the excise duties which they apply on wines.

In the light of the foregoing, and pursuant to Article 155 of the Treaty establishing the EEC, the Commission recommends that the Member States concerned should:

1. reduce appreciably the rate of excise duties levied by them on products falling within subheadings 22.05 C I and II of the Common Customs Tariff;
2. forgo any planned or recently introduced increase in the rate of these excise duties;
3. inform the Commission of the measures taken pursuant to this recommendation.

Done at Brussels, 5 December 1975.

For the Commission

P. J. LARDINOIS

Member of the Commission

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 20 January 1976

on a derogation accorded to the Kingdom of Denmark relating to the rules governing turnover tax and excise duty applicable in international travel

(76/134/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof,

Having regard to the Act of Accession, and in particular Article 133 and Annex VII, part V (1) thereof,

Having regard to the proposal from the Commission,

Whereas Annex VII, part V (1), of the Act of Accession grants a derogation to Denmark relating to the application of certain provisions of Council Directive 69/169/EEC of 28 May 1969 on the harmonization of provisions laid down by law, regulation or administrative action relating to exemption from turnover tax and excise duty on imports in international traffic [1], as amended by Directive 72/230/EEC [2];

Whereas before 31 December 1975 the Council shall decide in accordance with the procedure laid down in Article 100 of the Treaty whether and how far this derogation requires to be prolonged, account being taken of the extent to which economic and monetary union, and particularly progress in tax harmonization, has been achieved;

Whereas since the desired progress has not been achieved, the Danish Government has requested a prolongation, without change, of the rules in force;

Whereas a prolongation of the derogation appears necessary,

HAS ADOPTED THIS DIRECTIVE:

Article 1

By way of derogation from Directives 69/169/EEC and 72/230/EEC, the Kingdom of Denmark shall have the right to maintain up to and including 31 December 1976 the rules in force for exemptions applicable to travellers involved in international travel for the products set out in Annex VII, part V (1) (A) of the Act of Accession.

Article 2

The Kingdom of Denmark shall communicate to the Commission the text of the measures which it adopts in the field covered by this Directive.

Article 3

This Directive is addressed to the Kingdom of Denmark.

Done at Brussels, 20 January 1976.

For the Council

The President

G. THORN

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(1) OJ No L 133, 4. 6. 1969, p. 6.
(2) OJ No L 139, 17. 6. 1972, p. 28.

No L 73/18 Official Journal of the European Communities 19. 3. 76

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 15 March 1976

on mutual assistance for the recovery of claims resulting from operations forming part of the system of financing the European Agricultural Guidance and Guarantee Fund, and of agricultural levies and customs duties

(76/308/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100 thereof,

Having regard to Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy (1), as last amended by Regulation (EEC) No 2788/72 (2), and in particular Article 8 (3) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (3),

Having regard to the opinion of the Economic and Social Committee (4),

Whereas it is not at present possible to enforce in one Member State a claim for recovery substantiated by a document drawn up by the authorities of another Member State;

Whereas the fact that national provisions relating to recovery are applicable only within national territories is in itself an obstacle to the establishment and functioning of the common market; whereas this situation prevents Community rules from being fully and fairly applied, particularly in the area of the common agricultural policy, and facilitates fraudulent operations;

Whereas it is therefore necessary to adopt common rules on mutual assistance for recovery;

Whereas these rules must apply both to the recovery of claims resulting from the various measures which form part of the system of total or partial financing of the European Agricultural Guidance and Guarantee Fund and to the recovery of agricultural levies and customs duties within the meaning of Article 2 of Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (5), and of Article 128 of the Act of Accession; whereas they must also apply to the recovery of interest and costs incidental to such claims;

Whereas mutual assistance must consist of the following: the requested authority must on the one hand supply the applicant authority with the information which the latter needs in order to recover claims arising in the Member State in which it is situated and notify the debtor of all instruments relating to such claims emanating from that Member State, and on the other hand it must recover, at the request of the applicant authority, the claims arising in the Member State in which the latter is situated;

(1) OJ No L 94, 28. 4. 1970, p. 13.
(2) OJ No L 295, 30. 12. 1972, p. 1.
(3) OJ No C 19, 12. 4. 1973, p. 38.
(4) OJ No C 69, 28. 8. 1973, p. 3.
(5) OJ No L 94, 28. 4. 1970, p. 19.

Whereas these different forms of assistance must be afforded by the requested authority in compliance with the laws, regulations and administrative provisions governing such matters in the Member State in which it is situated;

Whereas it is necessary to lay down the conditions in accordance with which requests for assistance must be drawn up by the applicant authority and to give a limitative definition of the particular circumstances in which the requested authority may refuse assistance in any given case;

Whereas when the requested authority is required to act on behalf of the applicant authority to recover a claim, it must be able, if the provisions in force in the Member State in which it is situated so permit and with the agreement of the applicant authority, to allow the debtor time to pay or authorize payment by instalment; whereas any interest charged on such payment facilities must also be remitted to the Member State in which the applicant authority is situated;

Whereas, upon a reasoned request from the applicant authority, the requested authority must also be able, in so far as the provisions in force in the Member State in which it is situated so permit, to take precautionary measures to guarantee the recovery of claims arising in the applicant Member State; whereas such claims must not however be given any preferential treatment in the Member State in which the requested authority is situated;

Whereas it is possible that during the recovery procedure in the Member State in which the requested authority is situated the claim or the instrument authorizing its enforcement issued in the Member State in which the applicant authority is situated may be contested by the person concerned; whereas it should be laid down in such cases that the person concerned must bring the action contesting the claim before the competent body of the Member State in which the applicant authority is situated and that the requested authority must suspend any enforcement proceedings which it has begun until a decision is taken by the aforementioned body;

Whereas it should be laid down that documents and information communicated in the course of mutual assistance for recovery may not be used for other purposes;

Whereas this Directive should not curtail mutual assistance between particular Member States under bilateral or multilateral agreements or arrangements;

Whereas it is necessary to ensure that mutual assistance functions smoothly and to this end to lay down a Community procedure for determining the detailed rules for the application of such assistance within an appropriate period; whereas it is necessary to set up a committee to organize close and effective collaboration between the Member States and the Commission in this area,

HAS ADOPTED THIS DIRECTIVE:

Article 1

This Directive lays down the rules to be incorporated into the laws, regulations and administrative provisions of the Member States to ensure the recovery in each Member State of the claims referred to in Article 2 which arise in another Member State.

Article 2

This Directive shall apply to all claims relating to:

(a) refunds, interventions and other measures forming part of the system of total or partial financing of the European Agricultural Guidance and Guarantee Fund, including sums to be collected in connection with these actions;

(b) agricultural levies, within the meaning of Article 2 (a) of Decision 70/243/ECSC, EEC, Euratom and Article 128 (a) of the Act of Accession;

(c) customs duties, within the meaning of Article 2 (b) of the said Decision and Article 128 (b) of the Act of Accession;

(d) interest and costs incidental to the recovery of the claims referred to above.

Article 3

In this Directive:

— 'applicant authority' means the competent authority of a Member State which makes a request for assistance concerning a claim referred to in Article 2;

— 'requested authority' means the competent authority of a Member State to which a request for assistance is made.

Article 4

1. At the request of the applicant authority, the requested authority shall provide any information which would be useful to the applicant authority in the recovery of its claim.

In order to obtain this information, the requested authority shall make use of the powers provided under the laws, regulations or administrative provisions applying to the recovery of similar claims arising in the Member State where that authority is situated.

2. The request for information shall indicate the name and address of the person to whom the information to be provided relates and the nature and amount of the claim in respect of which the request is made.

3. The requested authority shall not be obliged to supply information :

(a) which it would not be able to obtain for the purpose of recovering similar claims arising in the Member State in which it is situated ;

(b) which would disclose any commercial, industrial or professional secrets ; or

(c) the disclosure of which would be liable to prejudice the security of or be contrary to the public policy of the State.

4. The requested authority shall inform the applicant authority of the grounds for refusing a request for information.

Article 5

1. The requested authority shall, at the request of the applicant authority, and in accordance with the rules of law in force for the notification of similar instruments or decisions in the Member State in which the requested authority is situated, notify to the addressee all instruments and decisions, including those of a judicial nature, which emanate from the Member State in which the applicant authority is situated and which relate to a claim and/or to its recovery.

2. The request for notification shall indicate the name and address of the addressee concerned, the nature and the subject of the instrument or decision to be notified, if necessary the name and address of the debtor and the claim to which the instrument or decision relates, and any other useful information.

3. The requested authority shall promptly inform the applicant authority of the action taken on its request for notification and, more especially, of the date on which the instrument or decision was forwarded to the addressee.

Article 6

1. At the request of the applicant authority, the requested authority shall, in accordance with the laws, regulations or administrative provisions applying to the recovery of similar claims arising in the Member State in which the requested authority is situated, recover claims which are the subject of an instrument permitting their enforcement.

2. For this purpose any claim in respect of which a request for recovery has been made shall be treated as a claim of the Member State in which the requested authority is situated, except where Article 12 applies.

Article 7

1. The request for recovery of a claim which the applicant authority addresses to the requested authority must be accompanied by an official or certified copy of the instrument permitting its enforcement, issued in the Member State in which the applicant authority is situated and, if appropriate, by the original or a certified copy of other documents necessary for recovery.

2. The applicant authority may not make a request for recovery unless :

(a) the claim and/or the instrument permitting its enforcement are not contested in the Member State in which it is situated ;

(b) it has, in the Member State in which it is situated, applied the recovery procedure available to it on the basis of the instrument referred to in paragraph 1, and the measures taken have not resulted in the payment in full of the claim.

3. The request for recovery shall indicate the name and address of the person concerned, the nature of the claim, the amount of the principal and the interest and costs due, as well as any other relevant information.

4. The request for recovery shall contain in addition a statement by the applicant authority indicating the date from which enforcement is possible under the laws in force in the Member State in which it is situated and confirming that the conditions set out in paragraph 2 are fulfilled.

5. As soon as any relevant information relating to the matter which gave rise to the request for recovery comes to the knowledge of the applicant authority it shall forward it to the requested authority.

Article 8

The instrument permitting enforcement of the claim shall, where appropriate, and in accordance with the provisions in force in the Member State in which the requested authority is situated, be accepted, recognized, supplemented, or replaced by an instrument authorizing enforcement in the territory of that Member State.

Such acceptance, recognition, supplementing or replacement must take place as soon as possible following the date of receipt of the request for recovery. They may not be refused if the instrument permitting enforcement in the Member State in which the applicant authority is situated is properly drawn up.

If any of these formalities should give rise to an examination or contestation in connection with the claim and/or the instrument permitting enforcement issued by the applicant authority, Article 12 shall apply.

Article 9

1. Claims shall be recovered in the currency of the Member State in which the requested authority is situated.

2. The requested authority may, where the laws, regulations or administrative provisions in force in the Member State in which it is situated so permit, and after consultations with the applicant authority, allow the debtor time to pay or authorize payment by instalment. Any interest charged by the requested authority in respect of such extra time to pay shall be remitted to the Member State in which the applicant authority is situated.

Any other interest charged for late payment under the laws, regulations and administrative provisions in force in the Member State in which the requested authority is situated shall also be remitted to the Member State in which the applicant authority is situated.

Article 10

The claims to be recovered shall not be given preferential treatment in the Member State in which the requested authority is situated.

Article 11

The requested authority shall inform the applicant authority immediately of the action it has taken on the request for recovery.

Article 12

1. If, in the course of the recovery procedure, the claim and/or the instrument permitting its enforcement issued in the Member State in which the applicant authority is situated are contested by an interested party, the action shall be brought by the latter before the competent body of the Member State in which the applicant authority is situated, in accordance with the laws in force there. This action must be notified by the applicant authority to the requested authority. The party concerned may also notify the requested authority of the action.

2. As soon as the requested authority has received the notification referred to in paragraph 1 either from the applicant authority or from the interested party, it shall suspend the enforcement procedure pending the decision of the body competent in the matter. Should the requested authority deem it necessary, and without prejudice to Article 13, that authority may take precautionary measures to guarantee recovery in so far as the laws or regulations in force in the Member State in which it is situated allow such action for similar claims.

3. Where it is the enforcement measures taken in the Member State in which the requested authority is situated that are being contested the action shall be brought before the competent body of that Member State in accordance with its laws and regulations.

4. Where the competent body before which the action has been brought in accordance with paragraph 1 is a judicial or administrative tribunal, the decision of that tribunal, in so far as it is favourable to the applicant authority and permits recovery of the claim in the Member State in which the applicant authority is situated shall constitute the 'instrument permitting enforcement' within the meaning of Articles 6, 7 and 8 and the recovery of the claim shall proceed on the basis of that decision.

Article 13

On a reasoned request by the applicant authority, the requested authority shall take precautionary measures to ensure recovery of a claim in so far as the laws or regulations in force in the Member State in which it is situated so permit.

In order to give effect to the provisions of the first paragraph, Articles 6, 7 (1), (3) and (5), 8, 11, 12 and 14 shall apply *mutatis mutandis*.

Article 14

The requested authority shall not be obliged:

(a) to grant the assistance provided for in Articles 6 to 13 if recovery of the claim would, because of the situation of the debtor, create serious economic or social difficulties in the Member State in which that authority is situated;

(b) to undertake recovery of a claim if the applicant authority has not exhausted the means of recovery in the territory of the Member State in which it is situated.

The requested authority shall inform the applicant authority of the grounds for refusing a request for assistance. Such reasoned refusal shall also be communicated to the Commission.

Article 15

1. Questions concerning periods of limitation shall be governed solely by the laws in force in the Member State in which the applicant authority is situated.

2. Steps taken in the recovery of claims by the requested authority in pursuance of a request for assistance, which, if they had been carried out by the applicant authority, would have had the effect of suspending or interrupting the period of limitation according to the laws in force in the Member State in which the applicant authority is situated, shall be deemed to have been taken in the latter State, in so far as that effect is concerned.

Article 16

Documents and information sent to the requested authority pursuant to this Directive may only be communicated by the latter to :

(a) the person mentioned in the request for assistance ;

(b) those persons and authorities responsible for the recovery of the claims, and solely for that purpose ;

(c) the judicial authorities dealing with matters concerning the recovery of the claims.

Article 17

Requests for assistance and relevant documents shall be accompanied by a translation in the official language, or one of the official languages of the Member State in which the requested authority is situated, without prejudice to the latter authority's right to waive the translation.

Article 18

Member States shall renounce all claims upon each other for the reimbursement of costs resulting from mutual assistance which they grant each other pursuant to this Directive.

However, the Member State in which the applicant authority is situated shall remain liable to the Member State in which the requested authority is situated for costs incurred as a result of actions held to be unfounded, as far as either the substance of the claim or the validity of the instrument issued by the applicant authority are concerned.

Article 19

Member States shall provide each other with a list of authorities authorized to make or receive requests for assistance.

Article 20

1. A Committee on Recovery (hereinafter called 'the committee') is hereby set up and shall consist of representatives of the Member States with a Commission representative as chairman.

2. The committee shall adopt its own rules of procedure.

Article 21

The committee may examine any matter concerning the application of this Directive raised by its chairman either on his own initiative or at the request of the representative of a Member State.

Article 22

1. The detailed rules for implementing Articles 4 (2) and (4), 5 (2) and (3), 7 (1), (3) and (5), 9, 11 and 12 (1) and the rules on conversion, transfer of sums recovered, and the fixing of a minimum amount for claims which may give rise to a request for assistance, shall be adopted in accordance with the procedure laid down in paragraph 2 and 3.

2. The Commission representative shall submit to the committee a draft of the measures to be adopted. The committee shall deliver its opinion on the draft within a time limit set by the chairman, having regard to the urgency of the matter. Opinions shall be adopted by a majority of 41 votes, the votes of the Member States being weighted as provided in Article 148 (2) of the Treaty. The chairman shall not vote.

3. (a) The commission shall adopt the proposed measures where they are in accordance with the opinion of the committee.

(b) Where the proposed measures are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall without delay propose to the Council the measures to be adopted. The Council shall act by a qualified majority.

(c) If within three months of the proposal being submitted to it, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 23

The provisions of this Directive shall not prevent a greater measure of mutual assistance being afforded either now or in the future by particular Member States under any agreements or arrangements, including those for the notification of legal or extra-legal acts.

Article 24

Member States shall bring into force the measures necessary to comply with this Directive not later than 1 January 1978.

Article 25

Each Member State shall inform the Commission of the measures which it has adopted to implement this Directive. The Commission shall forward this information to the other Member States.

Article 26

This Directive is addressed to the Member States.

Done at Brussels, 15 March 1976.

For the Council

The President

R. VOUEL

24. 12. 76 Official Journal of the European Communities No L 354/33

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 21 December 1976

amending Directive 72/464/EEC on taxes other than turnover taxes which affect the consumption of manufactured tobacco

(76/911/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

Having regard to the opinion of the Economic and Social Committee (2),

Whereas Council Directive 72/464/EEC of 19 December 1972 on taxes other than turnover taxes which affect the consumption of manufactured tobacco (3), as amended by Directive 75/786/EEC (4), provides that the Council shall adopt by 30 June 1976 at the latest a Directive laying down the special criteria applicable after the first stage, which, under Article 7 (1) and subject to Article 1 (4), covers a period of 48 months from 1 July 1973; whereas the Council has not yet adopted such a Directive;

Whereas, in these circumstances, it is necessary to further extend the first stage,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 72/464/EEC shall be amended as follows:

1. In Article 1 (3) the words 'at least six months' shall be substituted for 'at least one year'.
2. In Article 7 (1) the words 'period of 54 months' shall be substituted for 'period of 48 months'.

Article 2

This Directive is addressed to the Member States.

Done at Brussels, 21 December 1976.

For the Council

The President

A. P. L. M. M. van der STEE

(1) OJ No C 259, 4. 11. 1976, p. 44.
(2) OJ No C 278, 24. 11. 1976, p. 11.
(3) OJ No L 303, 31. 12. 1972, p. 1.
(4) OJ No L 330, 24. 12. 1975, p. 51.

COUNCIL DIRECTIVE

of 18 January 1977

on a derogation accorded to the Kingdom of Denmark relating to the rules governing turnover tax and excise duty applicable in international travel

(77/82/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof,

Having regard to the Act of Accession, and in particular Article 133 and Annex VII, part V (1) thereof,

Having regard to the proposal from the Commission,

Whereas Annex VII, part V (1), of the Act of Accession grants a derogation to Denmark relating to the application of certain provisions of Council Directive 69/169/EEC of 28 May 1969 on the harmonization of provisions laid down by law, regulation or administrative action relating to exemption from turnover tax and excise on imports in international travel (1), as amended by Directive 72/230/EEC (2);

Whereas, by Directive 76/134/EEC (3), the Council granted a prolongation of this derogation up to and including 31 December 1976;

Whereas the Danish Government has requested a further prolongation of this derogation;

Whereas a prolongation of the derogation has proved necessary,

HAS ADOPTED THIS DIRECTIVE:

Article 1

By way of derogation from Directives 69/169/EEC and 72/230/EEC, the Kingdom of Denmark shall have the right to maintain up to and including 31 December 1977 the rules in force for exemptions applicable to travellers involved in international travel for the products set out in Annex VII, part V (1) (a) of the Act of Accession.

Article 2

The Kingdom of Denmark shall communicate to the Commission the text of the measures which it adopts in the field covered by this Directive.

Article 3

This Directive is addressed to the Kingdom of Denmark.

Done at Brussels, 18 January 1977.

For the Council

The President

Anthony CROSLAND

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(1) OJ No L 133, 4. 6. 1969, p. 6.
(2) OJ No L 139, 17. 6. 1972, p. 28.
(3) OJ No L 21, 29. 1. 1976, p. 9.

II

(Acts whose publication is not obligatory)

COUNCIL

SIXTH COUNCIL DIRECTIVE

of 17 May 1977

on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment

(77/388/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

Having regard to the opinion of the Economic and Social Committee (2),

Whereas all Member States have adopted a system of value added tax in accordance with the first and second Council Directives of 11 April 1967 on the harmonization of the laws of the Member States realting to turnover taxes (3);

Whereas the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (4) provides that the budget of the Communities shall, irrespective of other revenue, be financed entirely from the Communities' own resources; whereas these resources are to include those accruing from value added tax and obtained by applying a common rate of tax on a basis of assessment determined in a uniform manner according to Community rules;

Whereas further progress should be made in the effective removal of restrictions on the movement of persons, goods, services and capital and the integration of national economies;

Whereas account should be taken of the objective of abolishing the imposition of tax on the importation and the remission of tax on exportation in trade between Member States; whereas it should be ensured that the common system of turnover taxes is non-discriminatory as regards the origin of goods and services, so that a common market permitting fair competition and resembling a real internal market may ultimately be achieved;

Whereas, to enhance the non-discriminatory nature of the tax, the term 'taxable person' must be clarified to enable the Member States to extend it to cover persons who occasionally carry out certain transactions;

Whereas the term 'taxable transaction' has led to difficulties, in particular as regards transactions treated as taxable transactions; whereas these concepts must be clarified;

Whereas the determination of the place where taxable transactions are effected has been the subject of conflicts

(1) OJ No C 40, 8. 4. 1974, p. 25.
(2) OJ No C 139, 12. 11. 1974, p. 15.
(3) OJ No 71, 14. 4. 1967, p. 1301/67.
(4) OJ No L 94, 28. 4. 1970, p. 19.

concerning jurisdiction as between Member States, in particular as regards supplies of goods for assembly and the supply of services; whereas although the place where a supply of services is effected should in principle be defined as the place where the person supplying the services has his principal place of business, that place should be defined as being in the country of the person to whom the services are supplied, in particular in the case of certain services supplied between taxable persons where the cost of the services is included in the price of the goods;

Whereas the concepts of chargeable event and of the charge to tax must be harmonized if the introduction and any subsequent alterations of the Community rate are to become operative at the same time in all Member States;

Whereas the taxable base must be harmonized so that the application of the Community rate to taxable transactions leads to comparable results in all the Member States;

Whereas the rates applied by Member States must be such as to allow the normal deduction of the tax applied at the preceding stage;

Whereas a common list of exemptions should be drawn up so that the Communities' own resources may be collected in a uniform manner in all the Member States;

Whereas the rules governing deductions should be harmonized to the extent that they affect the actual amounts collected; whereas the deductible proportion should be calculated in a similar manner in all the Member States;

Whereas it should be specified which persons are liable to pay tax, in particular as regards services supplied by a person established in another country;

Whereas the obligations of taxpayers must be harmonized as far as possible so as to ensure the necessary safeguards for the collection of taxes in a uniform manner in all the Member States; whereas taxpayers should, in particular, make a periodic aggregate return of their transactions, relating to both inputs and outputs where this appears necessary for establishing and monitoring the basis of assessment of own resources;

Whereas Member States should nevertheless be able to retain their special schemes for small undertakings, in accordance with common provisions, and with a view to closer harmonization; whereas Member States should remain free to apply a special scheme involving flat rate rebates of input value added tax to farmers not covered by normal schemes; whereas the basic principles of this scheme should be established and a common method adopted for calculating the value added of these farmers for the purposes of collecting own resources;

Whereas the uniform application of the provisions of this Directive should be ensured; whereas to this end a Community procedure for consultation should be laid down; whereas the setting up of a Value Added Tax Committee would enable the Member States and the Commission to cooperate closely;

Whereas Member States should be able, within certain limits and subject to certain conditions, to take or retain special measures derogating from this Directive in order to simplify the levying of tax or to avoid fraud or tax avoidance;

Whereas it might appear appropriate to authorize Member States to conclude with non-member countries or international organizations agreements containing derogations from this Directive;

Whereas it is vital to provide for a transitional period to allow national laws in specified fields to be gradually adapted,

HAS ADOPTED THIS DIRECTIVE:

TITLE I

INTRODUCTORY PROVISIONS

Article 1

Member States shall modify their present value added tax systems in accordance with the following Articles.

They shall adopt the necessary laws, regulations and administrative provisions so that the systems as modified enter into force at the earliest opportunity and by 1 January 1978 at the latest.

TITLE II

SCOPE

Article 2

The following shall be subject to value added tax:

1. the supply of goods or services effected for consideration within the territory of the country by a taxable person acting as such;

2. the importation of goods.

TITLE III

TERRITORIAL APPLICATION

Article 3

1. For the purposes of this Directive, the 'territory of the country' shall be the area of application of the Treaty establishing the European Economic Community as stipulated in respect of each Member State in Article 227.

2. The following territories of individual Member States shall be excluded from the 'territory of the country':

Federal Republic of Germany:
the Island of Heligoland, the territory of Büsingen;

Kingdom of Denmark:
Greenland;

Republic of Italy
Livigno, Campione d'Italia, the Italian waters of Lake Lugano.

3. If the Commission considers that the exclusions provided for in paragraph 2 are no longer justified, particularly in terms of fair competition or own resources, it shall submit appropriate proposals to the Council.

TITLE IV

TAXABLE PERSONS

Article 4

1. 'Taxable person' shall mean any person who independently carries out in any place any economic activity specified in paragraph 2, whatever the purpose or results of that activity.

2. The economic activities referred to in paragraph 1 shall comprise all activities of producers, traders and persons supplying services including mining and agricultural activities and activities of the professions. The exploitation of tangible or intangible property for the purpose of obtaining income therefrom on a continuing basis shall also be considered an economic activity.

3. Member States may also treat as a taxable person anyone who carries out, on an occasional basis, a transaction relating to the activities referred to in paragraph 2 and in particular one of the following:

(a) the supply before first occupation of buildings or parts of buildings and the land on which they stand; Member States may determine the conditions of application of this criterion to transformations of buildings and the land on which they stand.

Member States may apply criteria other than that of first occupation, such as the period elapsing between the date of completion of the building and the date of first supply or the period elapsing between the date of first occupation and the date of subsequent supply, provided that these periods do not exceed five years and two years respectively.

'A building' shall be taken to mean any structure fixed to or in the ground;

(b) the supply of building land.

'Building land' shall mean any unimproved or improved land defined as such by the Member States.

4. The use of the word 'independently' in paragraph 1 shall exclude employed and other persons from the tax in so far as they are bound to an employer by a contract of employment or by any other legal ties creating the relationship of employer and employee as regards working conditions, remuneration and the employer's liability.

Subject to the consultations provided for in Article 29, each Member State may treat as a single taxable person persons established in the territory of the country who, while legally independent, are closely bound to one another by financial, economic and organizational links.

5. States, regional and local government authorities and other bodies governed by public law shall not be considered taxable persons in respect of the activities or transactions in which they engage as public authorities, even where they collect dues, fees, contributions or payments in connection with these activities or transactions.

However, when they engage in such activities or transactions, they shall be considered taxable persons in respect of these activities or transactions where treatment as non-taxable persons would lead to significant distortions of competition.

In any case, these bodies shall be considered taxable persons in relation to the activities listed in Annex D, pro-

vided they are not carried out on such a small scale as to be negligible.

Member States may consider activities of these bodies which are exempt under Article 13 or 28 as activities which they engage in as public authorities.

TITLE V

TAXABLE TRANSACTIONS

Article 5

Supply of goods

1. 'Supply of goods' shall mean the transfer of the right to dispose of tangible property as owner.

2. Electric current, gas, heat, refrigeration and the like shall be considered tangible property.

3. Member States may consider the following to be tangible property:

(a) certain interest in immovable property;

(b) rights *in rem* giving the holder thereof a right of user over immovable property;

(c) shares or interests equivalent to shares giving the holder thereof *de jure* or *de facto* rights of ownership or possession over immovable property or part thereof.

4. The following shall also be considered supplies within the meaning of paragraph 1:

(a) the transfer, by order made by or in the name of a public authority or in pursuance of the law, of the ownership of property against payment of compensation;

(b) the actual handing over of goods, pursuant to a contract for the hire of goods for a certain period or for the sale of goods on deferred terms, which provides that in the normal course of events ownership shall pass at the latest upon payment of the final instalment;

(c) the transfer of goods pursuant to a contract under which commission is payable on purchase or sale.

5. Member States may consider the following to be supplies within the meaning of paragraph 1:

(a) supplies under a contract to make up work from customer's materials, that is to say delivery by a contractor to his customer of movable property made or assembled by the contractor from materials or objects entrusted to him by the customer for this purpose, whether or not the contractor has provided any part of the materials used;

(b) the handing over of certain works of construction.

6. The application by a taxable person of goods forming part of his business assets for his private use or that of his staff, or the disposal thereof free of charge or more generally their application for purposes other than those of his business, where the value added tax on the goods in question or the component parts thereof was wholly or partly deductible, shall be treated as supplies made for consideration. However, applications for the giving of samples or the making of gifts of small value for the purposes of the taxable person's business shall not be so treated.

7. Member States may treat as supplies made for consideration:

(a) the application by a taxable person for the purposes of his business of goods produced, constructed, extracted, processed, purchased or imported in the course of such business, where the value added tax on such goods, had they been acquired from another taxable person, would not be wholly deductible;

(b) the application of goods by a taxable person for the purposes of a non-taxable transaction, where the value added tax on such goods became wholly or partly deductible upon their acquisition or upon their application in accordance with subparagraph (a);

(c) except in those cases mentioned in paragraph 8, the retention of goods by a taxable person or his successors when he ceases to carry out a taxable economic activity where the value added tax on such goods became wholly or partly deductible upon their acquisition or upon their application in accordance with subparagraph (a).

8. In the event of a transfer, whether for consideration or not or as a contribution to a company, of a totality of assets or part thereof, Member States may consider that no supply of goods has taken place and in that event the recipient shall be treated as the successor to the transferor. Where appropriate, Member States may take the necessary measures to prevent distortion of competition in cases where the recipient is not wholly liable to tax.

Article 6

Supply of services

1. 'Supply of services' shall mean any transaction which does not constitute a supply of goods within the meaning of Article 5.

Such transactions may include *inter alia:*

— assignments of intangible property whether or not it is the subject of a document establishing title,

— obligations to refrain from an act or to tolerate an act or situation,

— the performances of services in pursuance of an order made by or in the name of a public authority or in pursuance of the law.

2. The following shall be treated as supplies of services for consideration:

(a) the use of goods forming part of the assets of a business for the private use of the taxable person or of his staff or more generally for purposes other than those of his business where the value added tax on such goods is wholly or partly deductible;

(b) supplies of services carried out free of charge by the taxable person for his own private use or that of his staff or more generally for purposes other than those of his business.

Member States may derogate from the provisions of this paragraph provided that such derogation does not lead to distortion of competition.

3. In order to prevent distortion of competition and subject to the consultations provided for in Article 29, Member States may treat as a supply of services for consideration the supply by a taxable person of a service for the purposes of his undertaking where the value added tax on such a service, had it been supplied by another taxable person, would not be wholly deductible.

4. Where a taxable person acting in his own name but on behalf of another takes part in a supply of services, he shall be considered to have received and supplied those services himself.

5. Article 5 (8) shall apply in like manner to the supply of services.

Article 7

Imports

'Importation of goods' shall mean the entry of goods into the territory of the country as defined in Article 3.

TITLE VI

PLACE OF TAXABLE TRANSACTIONS

Article 8

Supply of goods

1. The place of supply of goods shall be deemed to be:

(a) in the case of goods dispatched or transported either by the supplier or by the person to whom they are supplied or by a third person: the place where the goods are at the time when dispatch or transport to the person to whom they are supplied begins. Where the goods are installed or assembled, with or without a trial run, by or on behalf of the supplier, the place of supply shall be deemed to be the place where the goods are installed or assembled. In cases where the installation or assembly is carried out in a country other than that of the supplier, the Member State into which the goods are imported shall take any necessary steps to avoid double taxation in that State;

(b) in the case of goods not dispatched or transported: the place where the goods are when the supply takes place.

2. By way of derogation from paragraph 1 (a), where the place of departure of the consignment or transport of goods is in a country other than the country of import of those goods, the place of the supply by the importer within the meaning of Article 21 (2) and the place of any subsequent supplies shall be deemed to be within the country of import of the goods.

Article 9

Supply of services

1. The place where a service is supplied shall be deemed to be the place where the supplier has established his business or has a fixed establishment from which the service is supplied or, in the absence of such a place of business or fixed establishment, the place where he has his permanent address or usually resides.

2. However:

(a) the place of the supply of services connected with immovable property, including the services of estate agents and experts, and of services for preparing and coordinating construction works, such as the services of architects and of firms providing on-site supervision, shall be the place where the property is situated;

(b) the place where transport services are supplied shall be the place where transport takes place, having regard to the distances covered;

(c) the place of the supply of services relating to:

— cultural, artistic, sporting, scientific, educational, entertainment or similar activities, including the activities of the organizers of such activities, and where appropriate, the supply of ancillary services,

— ancillary transport activities such as loading, unloading, handling and similar activities,

— valuations of movable tangible property,

— work on movable tangible property,

shall be the place where those services are physically carried out;

(d) in the case of hiring out of movable tangible property, with the exception of all forms of transport, which is exported by the lessor from one Member State with a view to its being used in another Member State, the place of supply of the service shall be the place of utilization;

(e) the place where the following services are supplied when performed for customers established outside the Community or for taxable persons established in the Community but not in the same country as the supplier, shall be the place where the customer has established his business or has a fixed establishment to which the service is supplied or, in the absence of such a place, the place where he has his permanent address or usually resides:

— transfers and assignments of copyrights, patents, licences, trade marks and similar rights,

— advertising services,

— services of consultants, engineers, consultancy bureaux, lawyers, accountants and other similar services, as well as data processing and the supplying of information,

— obligations to refrain from pursuing or exercising, in whole or in part, a business activity or a right referred to in this point (e),

— banking, financial and insurance transactions including reinsurance, with the exception of the hire of safes,

— the supply of staff,

— the services of agents who act in the name and for the account of another, when they procure for their principal the services referred to in this point (e).

3. In order to avoid double taxation, non-taxation or the distortion of competition the Member States may, with regard to the supply of services referred to in 2 (e) and the hiring out of movable tangible property consider:

(a) the place of supply of services, which under this Article would be situated within the territory of the country, as being situated outside the Community where the effective use and enjoyment of the services take place outside the Community;

(b) the place of supply of services, which under this Article would be situated outside the Community, as being within the territory of the country where the effective use and enjoyment of the services take place within the territory of the country.

TITLE VII

CHARGEABLE EVENT AND CHARGEABILITY OF TAX

Article 10

1. (a) 'Chargeable event' shall mean the occurrence by virtue of which the legal conditions necessary for tax to become chargeable are fulfilled.

(b) The tax becomes 'chargeable' when the tax authority becomes entitled under the law at a given moment to claim the tax from the person liable to pay, notwithstanding that the time of payment may be deferred.

2. The chargeable event shall occur and the tax shall become chargeable when the goods are delivered or the services are performed. Deliveries of goods other than those referred to in Article 5 (4) (b) and supplies of services which give rise to successive statements of account or payments shall be regarded as being completed at the time when the periods to which such statements of account or payments pertain expire.

However, where a payment is to be made on account before the goods are delivered or the services are performed, the tax shall become chargeable on receipt of the payment and on the amount received.

By way of derogation from the above provisions, Member States may provide that the tax shall become chargeable, for certain transactions or for certain categories of taxable person, either:

— no later than the issue of the invoice or of the document serving as invoice, or

— no later than receipt of the price, or

— where an invoice or document serving as invoice is not issued, or is issued late, within a specified period from the date of the chargeable event.

3. As regards imported goods, the chargeable event shall occur and the tax shall become chargeable at the time when goods enter the territory of the country as defined in Article 3.

Where imported goods are subject to customs duties, to agricultural levies or to charges having equivalent effect established under a common policy, Member States may link the chargeable event and the date when the tax becomes chargeable with those laid down for these Community duties.

In cases where imported goods are not subject to any of these Community duties, Member States may apply the provisions in force governing customs duties as regards the chargeable event and the date when the tax becomes chargeable.

Where goods are placed on importation under one of the arrangements provided for in Article 16 (1) A or under arrangements for transit or temporary admission, the chargeable event and the date when the tax becomes chargeable shall occur only when the goods cease to be covered by these arrangements and are declared for home use.

TITLE VIII

TAXABLE AMOUNT

Article 11

A. *Within the territory of the country*

1. The taxable amount shall be:

(a) in respect of supplies of goods and services other than those referred to in (b), (c) and (d) below, everything which constitutes the consideration which has been or is to be obtained by the supplier from the purchaser, the customer or a third party for such supplies including subsidies directly linked to the price of such supplies;

(b) in respect of supplies referred to in Article 5 (6) and (7), the purchase price of the goods or of similar goods or, in the absence of a purchase price, the cost price, determined as the time of supply;

(c) in respect of supplies referred to in Article 6 (2), the full cost to the taxable person of providing the services;

(d) in respect of supplies referred to in Article 6 (3), the open market value of the services supplied.

'Open market value' of services shall mean the amount which a customer at the marketing stage at which the supply takes place would have to pay to a supplier at arm's length within the territory of the country at the time of the supply under conditions of fair competition to obtain the services in question.

2. The taxable amount shall include:

(a) taxes, duties, levies and charges, excluding the value added tax itself;

(b) incidental expenses such as commission, packing, transport and insurance costs charged by the supplier to the purchaser or customer. Expenses covered by a separate agreement may be considered to be incidental expenses by the Member States.

3. The taxable amount shall not include:

(a) price reductions by way of discount for early payment;

(b) price discounts and rebates allowed to the customer and accounted for at the time of the supply;

(c) the amounts received by a taxable person from his purchaser or customer as repayment for expenses paid out in the name and for the account of the latter and which are entered in his books in a suspense account. The taxable person must furnish proof of the actual amount of this expenditure and may not deduct any tax which may have been charged on these transactions.

B. *Importation of goods*

1. The taxable amount shall be:

(a) the price paid or to be paid by the importer, where this price is the sole consideration defined in A (1) (a);

(b) the open market value, where no price is paid or where the price paid or to be paid is not the sole consideration for the imported goods.

'Open market value' of imported goods shall mean the amount which an importer at the marketing stage at which the importation takes place would have to pay to a supplier at arm's length in the country from which the goods are exported at the time when the tax becomes chargeable under conditions of fair competition to obtain the goods in question.

2. Member States may adopt as taxable amount the value defined in Regulation (EEC) No 803/68 [1].

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[1] OJ No L 148, 28. 6. 1968, p. 6.

3. The taxable amount shall include, in so far as they are not already included:

(a) taxes, duties, levies and other charges due outside the country of importation and those due by reason of importation, excluding the value added tax to be levied;

(b) incidental expenses, such as commission, packing, transport and insurance costs, incurred up to the first place of destination within the territory of the country.

'First place of destination' shall mean the place mentioned on the consignment note or any other transport document by means of which the goods are imported into the country of importation. In the absence of such an indication, the first place of destination shall be taken to be the place of the first transfer of cargo in that country.

Equally, the Member States may include in the taxable amount the incidental expenses referred to above where they result from transport to another place of destination, if the latter is known at the time when the chargeable event occurs.

4. The taxable amount shall not include those factors referred to in A (3) (a) and (b).

5. When goods have been temporarily exported and are re-imported after having undergone abroad repair, processing or adaptation, or after having been made up or reworked abroad, and the re-importation is not exempt under the provisions of Article 14 (1) (f), Member States shall take steps to ensure that the treatment of the goods for value added tax purposes is the same as that which would have applied to the goods in question had the above operations been carried out within the territory of the country.

C. *Miscellaneous provisions*

1. In the case of cancellation, refusal or total or partial non-payment, or where the price is reduced after the supply takes place, the taxable amount shall be reduced accordingly under conditions which shall be determined by the Member States.

However, in the case of total or partial non-payment, Member States may derogate from this rule.

2. Where information for determining the taxable amount is expressed in a currency other than that of the Member State where assessment takes place, the exchange rate shall be determined in accordance with Article 12 of Regulation (EEC) No 803/68.

3. As regards returnable packing costs, Member States may:

— either exclude them from the taxable amount and take the necessary measures to see that this amount is adjusted if the packing is not returned,

— or include them in the taxable amount and take the necessary measures to see that this amount is adjusted where the packing is in fact returned.

TITLE IX

RATES

Article 12

1. The rate applicable to taxable transactions shall be that in force at the time of the chargeable event. However:

(a) in the cases provided for in the second and third subparagraphs of Article 10 (2), the rate to be used shall be that in force when the tax becomes chargeable;

(b) in the cases provided for in the second and third subparagraphs of Article 10 (3), the rate applicable shall be that in force at the time when application is made for the goods to be released for home use.

2. In the event of changes in the rates, Member States may:

— effect adjustments in the cases provided for in paragraph 1 (a) in order to take account of the rate applicable at the time when the goods or services were supplied,

— adopt all appropriate transitional measures.

3. The standard rate of value added tax shall be fixed by each Member State as a percentage of the taxable amount and shall be the same for the supply of goods and for the supply of services.

4. In certain cases, the supply of goods or services may be made subject to increased or reduced rates. Each reduced rate shall be so fixed that the amount of value added tax resulting from the application thereof shall be such as in the normal way to permit the deduction therefrom of the whole of the value added tax deductible under the provisions of Article 17.

5. The rate applicable on the importation of goods shall be that applied to the supply of like goods within the territory of the country.

TITLE X

EXEMPTIONS

Article 13

Exemptions within the territory of the country

A. *Exemptions for certain activities in the public interest*

1. Without prejudice to other Community provisions, Member States shall exempt the following under conditions which they shall lay down for the purpose of ensuring the correct and straightforward application of such exemptions and of preventing any possible evasion, avoidance or abuse:

(a) the supply by the public postal services of services other than passenger transport and telecommunications services, and the supply of goods incidental thereto;

(b) hospital and medical care and closely related activities undertaken by bodies governed by public law or, under social conditions comparable to those applicable to bodies governed by public law, by hospitals, centres for medical treatment or diagnosis and other duly recognized establishments of a similar nature;

(c) the provision of medical care in the exercise of the medical and paramedical professions as defined by the Member State concerned;

(d) supplies of human organs, blood and milk;

(e) services supplied by dental technicians in their professional capacity and dental prostheses supplied by dentists and dental technicians;

(f) services supplied by independent groups of persons whose activities are exempt from or are not subject to value added tax, for the purpose of rendering their members the services directly necessary for the exercise of their activity, where these groups merely claim from their members exact reimbursement of their share of the joint expenses, provided that such exemption is not likely to produce distortion of competition;

(g) the supply of services and of goods closely linked to welfare and social security work, including those supplied by old people's homes, by bodies governed by public law or by other organizations recognized as charitable by the Member State concerned;

(h) the supply of services and of goods closely linked to the protection of children and young persons by bodies governed by public law or by other organizations recognized as charitable by the Member State concerned;

(i) children's or young people's education, school or university education, vocational training or retraining, including the supply of services and of goods closely related thereto, provided by bodies governed by public law having such as their aim or by other organizations defined by the Member State concerned as having similar objects;

(j) tuition given privately by teachers and covering school or university education;

(k) certain supplies of staff by religious or philosophical institutions for the purpose of subparagraphs (b), (g), (h) and (i) of this Article and with a view to spiritual welfare;

(l) supply of services and goods closely linked thereto for the benefit of their members in return for a subscription fixed in accordance with their rules by non-profit-making organizations with aims of a political, trade-union, religious, patriotic, philosophical, philanthropic or civic nature, provided that this exemption is not likely to cause distortion of competition;

(m) certain services closely linked to sport or physical education supplied by non-profit-making organizations to persons taking part in sport or physical education;

(n) certain cultural services and goods closely linked thereto supplied by bodies governed by public law or by other cultural bodies recognized by the Member State concerned;

(o) the supply of services and goods by organizations whose activities are exempt under the provisions of subparagraphs (b), (g), (h), (i), (l), (m) and (n) above in connection with fund-raising events organized exclusively for their own benefit provided that exemption is not likely to cause distortion of competition. Member States may introduce any necessary restrictions in particular as regards the number of events or the amount of receipts which give entitlement to exemption;

(p) the supply of transport services for sick or injured persons in vehicles specially designed for the purpose by duly authorized bodies;

(q) activities of public radio and television bodies other than those of a commercial nature.

2. (a) Member States may make the granting to bodies other than those governed by public law of each exemption provided for in (1) (b), (g), (h), (i), (l), (m) and (n) of this Article subject in each individual case to one or more of the following conditions:

— they shall not systematically aim to make a profit, but any profits nevertheless arising shall not be distributed, but shall be assigned to the continuance or improvement of the services supplied,

— they shall be managed and administered on an essentially voluntary basis by persons who have no direct or indirect interest, either themselves or through intermediaries, in the results of the activities concerned,

— they shall charge prices approved by the public authorities or which do not exceed such approved prices or, in respect of those services not subject to approval, prices lower than those charged for similar services by commercial enterprises subject to value added tax,

— exemption of the services concerned shall not be likely to create distortions of competition such as to place at a disadvantage commercial enterprises liable to value added tax.

(b) The supply of services or goods shall not be granted exemption as provided for in (1) (b), (g), (h), (i), (l), (m) and (n) above if:

— it is not essential to the transactions exempted,

— its basic purpose is to obtain additional income for the organization by carrying out transactions which are in direct competition with those of commercial enterprises liable for value added tax.

B. *Other exemptions*

Without prejudice to other Community provisions, Member States shall exempt the following under conditions which they shall lay down for the purpose of ensuring the correct and straightforward application of the exemptions and of preventing any possible evasion, avoidance or abuse:

(a) insurance and reinsurance transactions, including related services performed by insurance brokers and insurance agents;

(b) the leasing or letting of immovable property excluding:

1. the provision of accomodation, as defined in the laws of the Member States, in the hotel sector or in sectors with a similar function, including the provision of accomodation in holiday camps or on sites developed for use as camping sites;

2. the letting of premises and sites for parking vehicles;

3. lettings of permanently installed equipment and machinery;

4. hire of safes.

Member States may apply further exclusions to the scope of this exemption;

(c) supplies of goods used wholly for an activity exempted under this Article or under Article 28 (3) (b) when these goods have not given rise to the right to deduction, or of goods on the acquisition or production of which, by virtue of Article 17 (6), value added tax did not become deductible;

(d) the following transactions:

1. the granting and the negotiation of credit and the management of credit by the person granting it;

2. the negotiation of or any dealings in credit guarantees or any other security for money and the management of credit guarantees by the person who is granting the credit;

3. transactions, including negotiation, concerning deposit and current accounts, payments, transfers, debts, cheques and other negotiable instruments, but excluding debt collection and factoring;

4. transactions, including negotiation, concerning currency, bank notes and coins used as legal tender, with the exception of collectors' items; 'collectors' items' shall be taken to mean gold, silver or other metal coins or bank notes which are not normally used as legal tender or coins of numismatic interest;

5. transactions, including negotiation, excluding management and safekeeping, in shares, interests in companies or associations, debentures and other securities, excluding:

— documents establishing title to goods,

– the rights or securities referred to in Article 5 (3);

6. management of special investment funds as defined by Member States;

(e) the supply at face value of postage stamps valid for use for postal services within the territory of the country, fiscal stamps, and other similar stamps;

(f) betting, lotteries and other forms of gambling, subject to conditions and limitations laid down by each Member State;

(g) the supply of buildings or parts thereof, and of the land on which they stand, other than as described in Article 4 (3) (a);

(h) the supply of land which has not been built on other than building land as described in Article 4 (3) (b).

C. *Options*

Member States may allow taxpayers a right of option for taxation in cases of:

(a) letting and leasing of immovable property;

(b) the transactions covered in B (d) (g) and (h) above.

Member States may restrict the scope of this right of option and shall fix the details of its use.

Article 14

Exemptions on importation

1. Without prejudice to other Community provisions, Member States shall exempt the following under conditions which they shall lay down for the purpose of ensuring the correct and straightforward application of such exemption and of preventing any possible evasion, avoidance or abuse:

(a) final importation of goods of which the supply by a taxable person would in all circumstances be exempted within the country;

(b) importation of goods under a declaration for transit arrangements;

(c) importation of goods declared to be under temporary importation arrangements, which thereby qualify for exemption from customs duties, or which would so qualify if they were imported from a third country;

(d) final importation of goods qualifying for exemption from customs duties other than as provided for in the Common Customs Tariff or which would qualify therefor if they were imported from a third country. However, Member States shall have the option of not granting exemption where this would be liable to have a serious effect on conditions of competition on the home market;

(e) reimportation by the person who exported them of goods in the state in which they were exported, where they qualify for exemption from customs duties or would qualify therefor if they were imported from a third country;

(f) the re-importation of movable tangible property by the person who exported it, or by another person on his account, where that property has while in another Member State undergone work which has been taxed without the right to deduction or refund;

(g) importations of goods:

— under diplomatic and consular arrangements, which qualify for exemption from customs duties or would qualify therefor if they were imported from a third country,

— by international organizations recognized as such by the public authorities of the host country, and by members of such organizations, within the limits and under the conditions laid down by the international conventions establishing the organizations or by headquarters agreements,

— into the territory of Member States which are parties to the North Atlantic Treaty by the armed forces of other States which are parties to that Treaty for the use of such forces or the civilian staff accompanying them or for supplying their messes or canteens where such forces take part in the common defence effort;

(h) importation into ports by sea fishing undertakings of their catches, unprocessed or after undergoing preservation for marketing but before being supplied;

(i) the supply of services, in connection with the importation of goods where the value of such services is included in the taxable amount in accordance with Article 11 B (3) (b);

(j) importation of gold by Central Banks.

2. The Commission shall submit to the Council at the earliest opportunity proposals designed to lay down Community tax rules clarifying the scope of the exemptions referred to in paragraph 1 and detailed rules for their implementation.

Until the entry into force of these rules, Member States may:

— maintain their national provisions in force on matters related to the above provisions,

— adapt their national provisions to minimize distortion of competition and in particular the non-imposition or double imposition of value added tax within the Community,

— use whatever administrative procedures they consider most appropriate to achieve exemption.

Member States shall inform the Commission, which shall inform the other Member States, of the measures they have adopted and are adopting pursuant to the preceding provisions.

Article 15

Exemption of exports and like transactions and international transport

Without prejudice to other Community provisions Member States shall exempt the following under conditions which they shall lay down for the purpose of ensuring the correct and straightforward application of such exemptions and of preventing any evasion, avoidance or abuse:

1. the supply of goods dispatched or transported to a destination outside the territory of the country as defined in Article 3 by or on behalf of the vendor;

2. the supply of goods dispatched or transported to a destination outside the territory of the country as defined in Article 3 by or on behalf of a purchaser not established within the territory of the country, with the exception of goods transported by the purchaser himself for the equipping, fuelling and provisioning of pleasure boats and private aircraft or any other means of transport for private use;

3. the supply of services consisting of work on movable property acquired or imported for the purpose of undergoing such work in the territory of the country as defined in Article 3, and dispatched or transported out of the territory of that country by the person providing the services or by his customer who is not established within the territory of the country or on behalf of either of them;

4. the supply of goods for the fuelling and provisioning of vessels:

   (a) used for navigation on the high seas and carrying passengers for reward or used for the purpose of commercial, industrial or fishing activities;

   (b) used for rescue or assistance at sea, or for inshore fishing, with the exception, for the latter, of ships' provisions;

   (c) of war, as defined in subheading 89.01 A of the Common Customs Tariff, leaving the country and bound for foreign ports or anchorages.

   The Member States may, however, restrict the scope of this exemption until the implementation of Community tax rules in this field;

5. the supply, modification, repair, maintenance, chartering and hiring of the sea-going vessels referred to in paragraph 4 (a) and (b) and the supply, hiring, repair and maintenance of equipment — including fishing equipment — incorporated or used therein;

6. the supply, modification, repair, maintenance, chartering and hiring of aircraft used by airlines operating for reward chiefly on international routes, and the supply, hiring, repair and maintenance of equipment incorporated or used therein;

7. the supply of goods for the fuelling and provisioning of aircraft referred to in paragraph 6;

8. the supply of services other than those referred to in paragraph 5, to meet the direct needs of the sea-going vessels referred to in that paragraph or of their cargoes;

9. the supply of services other than those referred to in paragraph 6, to meet the direct needs of aircraft referred to in that paragraph or of their cargoes;

10. supplies of goods and services:

   — under diplomatic and consular arrangements,

   — to international organizations recognized as such by the public authorities of the host country, and to members of such organizations, within the limits and under the conditions laid down by the international conventions establishing the organizations or by headquarters agreements,

   — effected within a Member State which is a party to the North Atlantic Treaty and intended either for the use of the forces of other States which are parties to that Treaty or of the civilian staff accompanying them, or for supplying their messes or canteens when such forces take part in the common defence effort.

   This exemption shall be subject to conditions and limitations laid down by Member States until Community tax rules are adopted.

The exemption may be implemented by means of a refund of the tax;

11. supplies of gold to Central Banks;

12. goods supplied to approved bodies which export them as part of their humanitarian, charitable or teaching activities abroad. This exemption may be implemented by means of a refund of the tax;

13. the supply of services including transport and ancillary transactions but excluding the supply of services exempted under Article 13, when these are directly linked to the transit or the export of goods, or to the imports of goods benefiting from the provisions of Articles 14 (1) (b) and (c), and 16 (1);

14. services supplied by brokers and other intermediaries, acting in the name and for account of another person, where they form part of transactions specified in this Article, or of transactions carried out outside the territory of the country as defined in Article 3.

This exemption does not apply to travel agents who supply in the name and for account of the traveller services which are supplied in other Member States.

Article 16

Special exemptions linked to international goods traffic

1. Without prejudice to other Community provisions, Member States may, subject to the consultations provided for in Article 29, take special measures designed to relieve from value added tax all or some of the following transactions, provided that they are not aimed at final use and/or consumption and that the amount of value added tax charged at entry for home use corresponds to the amount of the tax which should have been charged had each of these transactions been taxed on import or within the territory of the country:

A. importation of goods which are intended to be:

(a) produced to customs and, where applicable, placed in temporary storage within the meaning of Directive 68/312/EEC (1);

(b) placed under free zone arrangements such as those within the meaning of Directive 69/75/EEC (2);

(c) placed under customs warehousing arrangements within the meaning of Directive 69/74/EEC (3);

(d) admitted into the waters and foreshores referred to in Article 4 of Regulation (EEC) No 1496/68 (4);

(e) placed under warehousing arrangements other than customs, or inward processing arrangements;

B. supplies of goods shipped or carried to places specified in A above and supplies of services related to such supplies;

C. supplies of goods and services carried out in the places listed in A above and still subejct to one of the arrangements specified therein;

D. supplies of goods still subject to arrangements for transit or temporary importation specified in Article 14 (1) (b) and (c) as well as supplies of services related to such supplies.

2. Subject to the consultation provided for in Article 29, Member States may opt to exempt imports for and supplies of goods to a taxable person intending to export them as they are or after processing, as well as supplies of services linked with his export business, up to a maximum equal to the value of his exports during the preceding 12 months.

3. The Commission shall submit to the Council at the earliest opportunity proposals concerning common arrangements for applying value added tax to the transactions referred to in paragraphs 1 and 2.

TITLE XI

DEDUCTIONS

Article 17

Origin and scope of the right to deduct

1. The right to deduct shall arise at the time when the deductible tax becomes chargeable.

2. In so far as the goods and services are used for the purposes of his taxable transactions, the taxable person shall be entitled to deduct from the tax which he is liable to pay:

(a) value added tax due or paid in respect of goods or services supplied or to be supplied to him by another taxable person;

(b) value added tax due or paid in respect of imported goods;

(1) OJ No L 194, 6. 8. 1968, p. 13.
(2) OJ No L 58, 8. 3. 1969, p. 11.
(3) OJ No L 58, 8. 3. 1969, p. 7.
(4) OJ No L 238, 28. 9. 1968, p. 1.

(c) value added tax due under Articles 5 (7) (a) and 6 (3).

3. Member States shall also grant to every taxable person the right to a deduction or refund of the value added tax referred to in paragraph 2 in so far as the goods and services are used for the purposes of:

(a) transactions relating to the economic activities as referred to in Article 4 (2) carried out in another country, which would be eligible for deduction of tax if they had occurred in the territory of the country;

(b) transactions which are exempt under Article 14 (1) (i) and under Articles 15 and 16 (1) (B), (C) and (D), and paragraph 2;

(c) any of the transactions exempted under Article 13 B (a) and (d), paragraphs 1 to 5, when the customer is established outside the Community or when these transactions are directly linked with goods intended to be exported to a country outside the Community.

4. The Council shall endeavour to adopt before 31 December 1977, on a proposal from the Commission and acting unanimously, Community rules laying down the arrangements under which refunds are to be made in accordance with paragraph 3 to taxable persons not established in the territory of the country. Until such Community arrangements enter into force, Member States shall themselves determine the method by which the refund concerned shall be made. Where the taxable person is not resident in the territory of the Community, Member States may refuse the refund or impose supplementary conditions.

5. As regards goods and services to be used by a taxable person both for transactions covered by paragraphs 2 and 3, in respect of which value added tax is deductible, and for transactions in respect of which value added tax is not deductible, only such proportion of the value added tax shall be deductible as is attributable to the former transactions.

This proportion shall be determined, in accordance with Article 19, for all the transactions carried out by the taxable person.

However, Member States may:

(a) authorize the taxable person to determine a proportion for each sector of his business, provided that separate accounts are kept for each sector;

(b) compel the taxable person to determine a proportion for each sector of his business and to keep separate accounts for each sector;

(c) authorize or compel the taxable person to make the deduction on the basis of the use of all or part of the goods and services;

(d) authorize or compel the taxable person to make the deduction in accordance with the rule laid down in the first subparagraph, in respect of all goods and services used for all transactions referred to therein;

(e) provide that where the value added tax which is not deductible by the taxable person is insignificant it shall be treated as nil.

6. Before a period of four years at the latest has elapsed from the date of entry into force of this Directive, the Council, acting unanimously on a proposal from the Commission, shall decide what expenditure shall not be eligible for a deduction of value added tax. Value added tax shall in no circumstances be deductible on expenditure which is not strictly business expenditure, such as that on luxuries, amusements or entertainment.

Until the above rules come into force, Member States may retain all the exclusions provided for under their national laws when this Directive comes into force.

7. Subject to the consultation provided for in Article 29, each Member State may, for cyclical economic reasons, totally or partly exclude all or some capital goods or other goods from the system of deductions. To maintain identical conditions of competition, Member States may, instead of refusing deduction, tax the goods manufactured by the taxable person himself or which he has purchased in the country or imported, in such a way that the tax does not exceed the value added tax which would have been charged on the acquisition of similar goods.

Article 18

Rules governing the exercise of the right to deduct

1. To exercise his right to deduct, the taxable person must:

(a) in respect of deductions under Article 17 (2) (a), hold an invoice, drawn up in accordance with Article 22 (3);

(b) in respect of deductions under Article 17 (2) (b), hold an import document, specifying him as consignee or importer, and stating or permitting calculation of the amount of tax due;

(c) in respect of deductions under Article 17 (2) (c), comply with the formalities established by each Member State;

(d) when he is required to pay the tax as a customer or purchaser where Article 21 (1) applies, comply with the formalities laid down by each Member State.

2. The taxable person shall effect the deduction by subtracting from the total amount of value added tax due for a given tax period the total amount of the tax in respect of which, during the same period, the right to deduct has arisen and can be exercised under the provisions of paragraph 1.

However, Member States may require that as regards taxable persons who carry out occasional transactions as defined in Article 4 (3), the right to deduct shall be exercised only at the time of the supply.

3. Member States shall determine the conditions and procedures whereby a taxable person may be authorized to make a deduction which he has not made in accordance with the provisions of paragraphs 1 and 2.

4. Where for a given tax period the amount of authorized deductions exceeds the amount of tax due, the Member States may either make a refund or carry the excess forward to the following period according to conditions which they shall determine.

However, Member States may refuse to refund or carry forward if the amount of the excess is insignificant.

Article 19

Calculation of the deductible proportion

1. The proportion deductible under the first subparagraph of Article 17 (5) shall be made up of a fraction having:

— as numerator, the total amount, exclusive of value added tax, of turnover per year attributable to transactions in respect of which value added tax is deductible under Article 17 (2) and (3),

— as denominator, the total amount, exclusive of value added tax, of turnover per year attributable to transactions included in the numerator and to transactions in respect of which value added tax is not deductible. The Member States may also include in the denominator the amount of subsidies, other than those specified in Article 11 A (1) (a).

The proportion shall be determined on an annual basis, fixed as a percentage and rounded up to a figure not exceeding the next unit.

2. By way of derogation from the provisions of paragraph 1, there shall be excluded from the calculation of the deductible proportion, amounts of turnover attributable to the supplies of capital goods used by the taxable person for the purposes of his business. Amounts of turnover attributable to transactions specified in Article 13 B (d), in so far as these are incidental transactions, and to incidental real estate and financial transactions shall also be excluded. Where Member States exercise the option provided under Article 20 (5) not to require adjustment in respect of capital goods, they may include disposals of capital goods in the calculation of the deductible proportion.

3. The provisional proportion for a year shall be that calculated on the basis of the preceding year's transactions. In the absence of any such transactions to refer to, or where they were insignificant in amount, the deductible proportion shall be estimated provisionally, under supervision of the tax authorities, by the taxable person from his own forecasts. However, Member States may retain their current rules.

Deductions made on the basis of such provisional proportion shall be adjusted when the final proportion is fixed during the next year.

Article 20

Adjustments of deductions

1. The initial deduction shall be adjusted according to the procedures laid down by the Member States, in particular:

(a) where that deduction was higher or lower than that to which the taxable person was entitled;

(b) where after the return is made some change occurs in the factors used to determine the amount to be deducted, in particular where purchases are cancelled or price reductions are obtained; however, adjustment shall not be made in cases of transactions remaining totally or partially unpaid and of destruction, loss or theft of property duly proved or confirmed, nor in the case of applications for the purpose of making gifts of small value and giving samples specified in Article 5 (6). However, Member States may require adjustment in cases of transactions remaining totally or partially unpaid and of theft.

2. In the case of capital goods, adjustment shall be spread over five years including that in which the goods were acquired or manufactured. The annual adjustment shall be made only in respect of one-fifth of the tax imposed on the goods. The adjustment shall be made on the basis of the variations in the deduction entitlement in subsequent years in relation to that for the year in which the goods were acquired or manufactured.

By way of derogation from the preceding subparagraph, Member States may base the adjustment on a period of five full years starting from the time at which the goods are first used.

In the case of immovable property acquired as capital goods the adjustment period may be extended up to 10 years.

3. In the case of supply during the period of adjustment capital goods shall be regarded as if they had still been applied for business use by the taxable person until expiry of the period of adjustment. Such business activities are presumed to be fully taxed in cases where the delivery of the said goods is taxed; they are presumed to be fully exempt where the delivery is exempt. The adjustment shall be made only once for the whole period of adjustment still to be covered.

However, in the latter case, Member States may waive the requirement for adjustment in so far as the purchaser is a taxable person using the capital goods in question solely for transactions in respect of which value added tax is deductible.

4. For the purposes of applying the provisions of paragraphs 2 and 3, Member States may:

— define the concept of capital goods,

— indicate the amount of the tax which is to be taken into consideration for adjustment,

— adopt any suitable measures with a view to ensuring that adjustment does not involve any unjustified advantage,

— permit administrative simplifications.

5. If in any Member State the practical effect of applying paragraphs 2 and 3 would be insignificant, that Member State may subject to the consultation provided for in Article 29 forego application of these paragraphs having regard to the need to avoid distortion of competition, the overall tax effect in the Member State concerned and the need for due economy of administration.

6. Where the taxable person transfers from being taxed in the normal way to a special scheme or *vice versa*, Member States may take all necessary measures to ensure that the taxable person neither benefits nor is prejudiced unjustifiably.

TITLE XII

PERSONS LIABLE FOR PAYMENT FOR TAX

Article 21

Persons liable to pay tax to the authorities

The following shall be liable to pay value added tax:

1. under the internal system:

(a) taxable persons who carry out taxable transactions other than those referred to in Article 9 (2) (e) and carried out by a taxable person resident abroad. When the taxable transaction is effected by a taxable person resident abroad Member States may adopt arrangements whereby tax is payable by someone other than the taxable person residing abroad. *Inter alia* a tax representative or other person for whom the taxable transaction is carried out may be designated as such other person. The Member States may also provide that someone other than the taxable person shall be held jointly and severally liable for payment of the tax;

(b) persons to whom services covered by Article 9 (2) (e) are supplied and carried out by a taxable person resident abroad. However, Member States may require that the supplier of services shall be held jointly and severally liable for payment of the tax;

(c) any person who mentions the value added tax on an invoice or other document serving as invoice;

2. on importation: the person or persons designated or accepted as being liable by the Member States into which the goods are imported.

TITLE XIII

OBLIGATIONS OF PERSONS LIABLE FOR PAYMENT

Article 22

Obligations under the internal system

1. Every taxable person shall state when his activity as a taxable person commences, changes or ceases.

2. Every taxable person shall keep accounts in sufficient detail to permit application of the value added tax and inspection by the tax authority.

3. (a) Every taxable person shall issue an invoice, or other document serving as invoice in respect of all goods and services supplied by him to another taxable person, and shall keep a copy thereof.

Every taxable person shall likewise issue an invoice in respect of payments on account made to him by another taxable person before the supply of goods or services is effected or completed.

(b) The invoice shall state clearly the price exclusive of tax and the corresponding tax at each rate as well as any exemptions.

(c) The Member States shall determine the criteria for considering whether a document serves as an invoice.

4. Every taxable person shall submit a return within an interval to be determined by each Member State. This interval may not exceed two months following the end of each tax period. The tax period may be fixed by Member States as a month, two months, or a quarter. However, Member States may fix different periods provided that these do not exceed a year.

The return must set out all the information needed to calculate the tax that has become chargeable and the deductions to be made, including, where appropriate, and in so far as it seems necessary for the establishment of the tax basis, the total amount of the transactions relative to such tax and deductions, and the total amount of the exempted supplies.

5. Every taxable person shall pay the net amount of the value added tax when submitting the return. The Member States may, however, fix a different date for the payment of the amount or may demand an interim payment.

6. Member States may require a taxable person to submit a statement, including the information specified in paragraph 4, and concerning all transactions carried out the preceding year. This statement must provide all the information necessary for any adjustments.

7. Member States shall take the necessary measures to ensure that those persons who, in accordance with Article 21 (1) (a) and (b), are considered to be liable to pay the tax instead of a taxable person established in another country or who are jointly and severally liable for the payment, shall comply with the above obligations relating to declaration and payment.

8. Without prejudice to the provisions to be adopted pursuant to Article 17 (4), Member States may impose other obligations which they deem necessary for the correct levying and collection of the tax and for the prevention of fraud.

9. Member States may release taxable persons:

— from certain obligations,

— from all obligations where those taxable persons carry out only exempt transactions,

— from the payment of the tax due where the amount is insignificant.

Article 23

Obligations in respect of imports

As regards imported goods, Member States shall lay down the detailed rules for the making of the declarations and payments.

In particular, Member States may provide that the value added tax payable on importation of goods by taxable persons or persons liable to tax or certain categories of these two need not be paid at the time of importation, on condition that the tax is mentioned as such in a return to be submitted under Article 22 (4).

TITLE XIV

SPECIAL SCHEMES

Article 24

Special scheme for small undertakings

1. Member States which might encounter difficulties in applying the normal tax scheme to small undertakings by reason of their activities or structure shall have the option, under such conditions and within such limits as they may set but subject to the consultation provided for in Article 29, of applying simplified procedures such as flat-rate schemes for charging and collecting the tax provided they do not lead to a reduction thereof.

2. Until a date to be fixed by the Council acting unanimously on a proposal from the Commission, but which shall not be later than that on which the charging of tax on imports and the remission of tax on exports in trade between the Member States are abolished:

(a) Member States which have made use of the option under Article 14 of the second Council Directive of 11 April 1967 to introduce exemptions or graduated tax relief may retain them and the arrangements for applying them if they conform with the value added tax system.

Those Member States which apply an exemption from tax to taxable persons whose annual turnover is less than the equivalent in national currency of 5 000 European units of account at the conversion rate of the day on which this Directive is adopted, may increase this exemption up to 5 000 European units of account.

Member States which apply graduated tax relief may neither increase the ceiling of the graduated tax reliefs nor render the conditions for the granting of it more favourable ;

(b) Member States which have not made use of this option may grant an exemption from tax to taxable persons whose annual turnover is at the maximum equal to the equivalent in national currency of 5 000 European un-

its of account at the conversion rate of the day on which this Directive is adopted; where appropriate, they may grant graduated tax relief to taxable persons whose annual turnover exceeds the ceiling fixed by the Member States for the application of exemption;

(c) Member States which apply an exemption from tax to taxable persons whose annual turnover is equal to or higher than the equivalent in national currency of 5 000 European units of account at the conversion rate of the day on which this Directive is adopted, may increase it in order to maintain its value in real terms.

3. The concepts of exemption and graduated tax relief shall apply to the supply of goods and services by small undertakings.

Member States may exclude certain transactions from the arrangements provided for in paragraph 2. The provisions of paragraph 2 shall not, in any case, apply to the transactions referred to in Article 4 (3).

4. The turnover which shall serve as a reference for the purposes of applying the provisions of paragraph 2 shall consist of the amount, exclusive of value added tax, of goods and services supplied as defined in Articles 5 and 6, to the extent that they are taxed, including transactions exempted with refund of tax previously paid in accordance with Article 28 (2), and the amount of the transactions exempted pursuant to Article 15, the amount of real property transactions, the financial transactions referred to in Article 13 B (d), and insurance services, unless these transactions are ancillary transactions.

However, disposals of tangible or intangible capital assets of an undertaking shall not be taken into account for the purposes of calculating turnover.

5. Taxable persons exempt from tax shall not be entitled to deduct tax in accordance with the provisions of Article 17, nor to show the tax on their invoices or on any other documents serving as invoices.

6. Taxable persons eligible for exemption from tax may opt either for the normal value added tax scheme or for the simplified procedures referred to in paragraph 1. In this case they shall be entitled to any graduated tax relief which may be laid down by national legislation.

7. Subject to the application of paragraph 1, taxable persons enjoying graduated relief shall be treated as taxable persons subject to the normal value added tax scheme.

8. At four-yearly intervals, and for the first time on 1 January 1982, and after consultation of the Member States, the Commission shall report to the Council on the application of the provisions of this Article. It shall as far as may be necessary, and taking into account the need to ensure the long-term convergence of national regulations, attach to this report proposals for:

(a) improvements to be made to the special scheme for small undertakings;

(b) the adaptation of national systems as regards exemptions and graduated value added tax relief;

(c) the adaptation of the limit of 5 000 European units of account mentioned in paragraph 2.

9. The Council will decide at the appropriate time whether the realization of the objective referred to in Article 4 of the first Council Directive of 11 April 1967 requires the introduction of a special scheme for small undertakings and will, if appropriate, decide on the limits and common implementing conditions of this scheme. Until the introduction of such a scheme, Member States may retain their own special schemes which they will apply in accordance with the provisions of this Article and of subsequent acts of the Council.

Article 25

Common flat-rate scheme for farmers

1. Where the application to farmers of the normal value added tax scheme, or the simplified scheme provided for in Article 24, would give rise to difficulties, Member States may apply to farmers a flat-rate scheme tending to offset the value added tax charged on purchases of goods and services made by the flat-rate farmers pursuant to this Article.

2. For the purposes of this Article, the following definitions shall apply:

— 'farmer': a taxable person who carries on his activity in one of the undertakings defined below,

— 'agricultural, forestry or fisheries undertakings': an undertaking considered to be such by each Member State within the framework of the production activities listed in Annex A,

— 'flat-rate farmer': a farmer subject to the flat-rate scheme provided for in paragraphs 3 *et seq.*,

— 'agricultural products': goods produced by an agricultural, forestry or fisheries undertaking in each Member State as a result of the activities listed in Annex A,

— 'agricultural service': any service as set out in Annex B supplied by a farmer using his labour force and/or by means of the equipment normally available on the agricultural, forestry or fisheries undertaking operated by him,

— 'value added tax charge on inputs': the amount of the total value added tax attaching to the goods and services purchased by all agricultural, forestry and fisheries undertakings of each Member State subject to the flat-rate scheme where such tax would be deductible under Article 17 by a farmer subject to the normal value added tax scheme,

— 'flat-rate compensation percentages': the percentages fixed by Member States in accordance with paragraph 3 and applied by them in the cases specified in paragraph 5 to enable flat-rate farmers to offset at a fixed rate the value added tax charge on inputs,

— 'flat-rate compensation': the amount arrived at by applying the flat-rate compensation percentage provided for in paragraph 3 to the turnover of the flat-rate farmer in the cases referred to in paragraph 5.

3. Member States shall fix the flat-rate compensation percentages, where necessary, and shall notify the Commission before applying them. Such percentages shall be based on macro-economic statistics for flat-rate farmers alone for the preceding three years. They may not be used to obtain for flat-rate farmers refunds greater than the value added tax charges on inputs. Member States shall have the option of reducing such percentages to a nil rate. The percentage may be rounded up or down to the nearest half point.

Member States may fix varying flat-rate compensation percentages for forestry, for the different sub-divisions of agriculture and for fisheries.

4. Member States may release flat-rate farmers from the obligations imposed upon taxable persons by Article 22.

5. The flat-rate percentages provided for in paragraph 3 shall be applied to the price, exclusive of tax, of the agricultural products and agricultural services supplied by the flat-rate farmers to taxable persons other than a flat-rate farmer. This compensation shall exclude all other forms of deduction.

6. Member States may provide for the flat-rate compensation to be paid:

(a) either by the taxable person to whom the goods or services are supplied. In this case, the taxable person to whom the goods or services are supplied shall be authorized, following the procedure laid down by the Member States, to deduct from the value added tax for which he is liable, the amount of the flat-rate compensation he has paid to the flat-rate farmers;

(b) or by the public authorities.

7. Member States shall make all necessary provisions to check properly the payment of the flat-rate compensation to the flat-rate farmers.

8. As regards all supplies of agricultural products and agricultural services other than those covered by paragraph 5, the flat-rate compensation is deemed to be paid by the purchaser or customer.

9. Each Member State may exclude from the flat-rate scheme certain categories of farmers and farmers for whom the application of the normal value added tax scheme, or the simplified scheme provided for in Article 24 (1), would not give rise to administrative difficulties.

10. Every flat-rate farmer may opt, subject to the rules and conditions to be laid down by each Member State, for application of the normal value added tax scheme or, as the case may be, the simplified scheme provided for in Article 24 (1).

11. The Commission shall, before the end of the fifth year following the entry into force of this Directive, present to the Council new proposals concerning the application of the value added tax to transactions in respect of agricultural products and services.

12. When they take up the option provided for in this Article the Member States shall fix the uniform basis of assessment of the value added tax in order to apply the scheme of own resources using the common method of calculation in Annex C.

Article 26

Special scheme for travel agents

1. Member States shall apply value added tax to the operations of travel agents in accordance with the provisions of this Article, where the travel agents deal with customers in their own name and use the supplies and services of other taxable persons in the provision of travel facilities. This Article shall not apply to travel agents who are acting only as intermediaries and accounting for tax in accordance with Article 11 A (3) (c). In this Article travel agents include tour operators.

2. All transactions performed by the travel agent in respect of a journey shall be treated as a single service supplied by the travel agent to the traveller. It shall be taxable in the Member State in which the travel agent has established his business or has a fixed establishment from which the travel agent has provided the services. The taxable amount and the price exclusive of tax, within the meaning of Article 22 (3) (b), in respect of this service shall be the travel agent's margin, that is to say, the difference between the total amount to be paid by the traveller, exclusive of value added tax, and the actual cost to the travel agent of supplies and services provided by other taxable persons where these transactions are for the direct benefit of the traveller.

3. If transactions entrusted by the travel agent to other taxable persons are performed by such persons outside the Community, the travel agent's service shall be treated as an exempted intermediary activity under Article 15 (14). Where these transactions are performed both inside and outside the Community, only that part of the travel agent's service relating to transactions outside the Community may be exempted.

4. Tax charged to the travel agent by other taxable persons on the transactions described in paragraph 2 which are for the direct benefit of the traveller, shall not be eligible for deduction or refund in any Member State.

TITLE XV

SIMPLIFICATION PROCEDURES

Article 27

1. The Council, acting unanimously on a proposal from the Commission, may authorize any Member State to introduce special measures for derogation from the provisions of this Directive, in order to simplify the procedure for charging the tax or to prevent certain types of tax evasion or avoidance. Measures intended to simplify the procedure for charging the tax, except to a negligible extent, may not affect the amount of tax due at the final consumption stage.

2. A Member State wishing to introduce the measures referred to in paragraph 1 shall inform the Commission of them and shall provide the Commission with all relevant information.

3. The Commission shall inform the other Member States of the proposed measures within one month.

4. The Council's decision shall be deemed to have been adopted if, within two months of the other Member States being informed as laid down in the previous paragraph, neither the Commission nor any Member State has requested that the matter be raised by the Council.

5. Those Member States which apply on 1 January 1977 special measures of the type referred to in paragraph 1 above may retain them providing they notify the Commission of them before 1 January 1978 and providing that where such derogations are designed to simplify the procedure for charging tax they conform with the requirement laid down in paragraph 1 above.

TITLE XVI

TRANSITIONAL PROVISIONS

Article 28

1. Any provisions brought into force by the Member States under the provisions of the first four indents of Article 17 of the second Council Directive of 11 April 1967 shall cease to apply, in each Member State, as from the respective dates on which the provisions referred to in the second paragraph of Article 1 of this Directive come into force.

2. Reduced rates and exemptions with refund of the tax paid at the preceding stage which are in force on 31 December 1975, and which satisfy the conditions stated in the last indent of Article 17 of the second Council Directive of 11 April 1967, may be maintained until a date which shall be fixed by the Council, acting unanimously on a proposal from the Commission, but which shall not be later than that on which the charging of tax on imports and the remission of tax on exports in trade between the Member States are abolished. Member States shall adopt the measures necessary to ensure that taxable persons declare the data required to determine own resources relating to these operations.

On the basis of a report from the Commission, the Council shall review the abovementioned reduced rates and exemptions every five years and, acting unanimously on a proposal from the Commission, shall where appropriate, adopt the measures required to ensure the progressive abolition thereof.

3. During the transitional period referred to in paragraph 4, Member States may:

(a) continue to subject to tax the transactions exempt under Article 13 or 15 set out in Annex E to this Directive;

(b) continue to exempt the activities set out in Annex F under conditions existing in the Member State concerned;

(c) grant to taxable persons the option for taxation of exempt transactions under the conditions set out in Annex G;

(d) continue to apply provisions derogating from the principle of immediate deduction laid down in the first paragraph of Article 18 (2);

(e) continue to apply measures derogating from the provisions of Articles 5 (4) (c), 6 (4) and 11 A (3) (c);

(f) provide that for supplies of buildings and building land purchased for the purpose of resale by a taxable person for whom tax on the purchase was not deductible, the taxable amount shall be the difference between the selling price and the purchase price;

(g) by way of derogation from Articles 17 (3) and 26 (3), continue to exempt without repayment of input tax the services of travel agents referred to in Article 26 (3). This derogation shall also apply to travel agents acting in the name and on account of the traveller.

4. The transitional period shall last initially for five years as from 1 January 1978. At the latest six months before the end of this period, and subsequently as necessary, the Council shall review the situation with regard to the derogations set out in paragraph 3 on the basis of a report from the Commission and shall unanimously determine on a proposal from the Commission, whether any or all of these derogations shall be abolished.

5. At the end of the transitional period passenger transport shall be taxed in the country of departure for that part of the journey taking place within the Community according to the detailed rules of procedure to be laid down by the Council acting unanimously on a proposal from the Commission.

TITLE XVII

VALUE ADDED TAX COMMITTEE

Article 29

1. An Advisory Committee on value added tax, hereinafter called 'the Committee', is hereby set up.

2. The Committee shall consist of representatives of the Member States and of the Commission.

The chairman of the Committee shall be a representative of the Commission.

Secretarial services for the Committee shall be provided by the Commission.

3. The Committee shall adopt its own rules of procedure.

4. In addition to points subject to the consultation provided for under this Directive, the Committee shall examine questions raised by its chairman, on his own initiative or at the request of the representative of a Member State, which concern the application of the Community provisions on value added tax.

TITLE XVIII

MISCELLANEOUS

Article 30

International Agreements

The Council, acting unanimously on a proposal from the Commission, may authorize any Member State to conclude with a non-member country or an international organization an agreement which may contain derogations from this Directive. A State wishing to conclude such an agreement shall bring the matter to the notice of the Commission and provide all the information necessary for it to be considered. The Commission shall inform the other Member States within one month.

The Council's decision shall be deemed to have been adopted if, within two months of the other Member States being informed as laid down in the previous paragraph, the matter has not been raised before the Council.

Article 31

Unit of account

1. The unit of account used in this Directive shall be the European unit of account (EUA) defined by Decision 75/250/EEC [1].

2. When converting this unit of account into national currencies, Member States shall have the option of rounding the amounts resulting from this conversion either upwards or downwards by up to 10 %.

Article 32

Second-hand goods

The Council, acting unanimously on a proposal from the Commission, shall adopt before 31 December 1977 a Community taxation system to be applied to used goods, works of art, antiques and collectors' items.

Until this Community system becomes applicable, Member States applying a special system to these items at the time this Directive comes into force may retain that system.

Article 33

Without prejudice to other Community provisions, the provisions of this Directive shall not prevent a Member State from maintaining or introducing taxes on insurance contracts, taxes on betting and gambling, excise duties, stamp duties and, more generally, any taxes, duties or charges which cannot be characterized as turnover taxes.

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[1] OJ No L 104, 24. 4. 1975, p. 35.

TITLE XIX

FINAL PROVISIONS

Article 34

For the first time on 1 January 1982 and thereafter every two years, the Commission shall, after consulting the Member States, send the Council a report on the application of the common system of value added tax in the Member States. This report shall be transmitted by the Council to the European Parliament.

Article 35

At the appropriate time the Council acting unanimously on a proposal from the Commission, after receiving the opinion of the European Parliament and of the Economic and Social Committee, and in accordance with the interests of the common market, shall adopt further Directives on the common system of value added tax, in particular to restrict progressively or to repeal measures taken by the Member States by way of derogation from the system, in order to achieve complete parallelism of the national value added tax systems and thus permit the attainment of the objective stated in Article 4 of the first Council Directive of 11 April 1967

Article 36

The fourth paragraph of Article 2 and Article 5 of the first Council Directive of 11 April 1967 are repealed.

Article 37

Second Council Directive 67/228/EEC of 11 April 1967 on value added tax shall cease to have effect in each Member State as from the respective dates on which the provisions of this Directive are brought into application.

Article 38

This Directive is addressed to the Member States.

Done at Brussels, 17 May 1977.

For the Council

The President

J. SILKIN

ANNEX A

LIST OF AGRICULTURAL PRODUCTION ACTIVITIES

I. CROP PRODUCTION

1. General agriculture, including viticulture
2. Growing of fruit (including olives) and of vegetables, flowers and ornamental plants, both in the open and under glass
3. Production of mushrooms, spices, seeds and propagating materials; nurseries

II. STOCK FARMING TOGETHER WITH CULTIVATION

1. General stock farming
2. Poultry farming
3. Rabbit farming
4. Beekeeping
5. Silkworm farming
6. Snail farming

III. FORESTRY

IV. FISHERIES

1. Fresh-water fishing
2. Fish farming
3. Breeding of mussels, oysters and other molluscs and crustaceans
4. Frog farming

V. Where a farmer processes, using means normally employed in an agricultural, forestry or fisheries undertaking, products deriving essentially from his agricultural production, such processing shall also be regarded as agricultural production

ANNEX B

LIST OF AGRICULTURAL SERVICES

Supplies of agricultural services which normally play a part in agricultural production shall be considered the supply of agricultural services, and include the following in particular:

— field work, reaping and mowing, threshing, baling, collecting, harvesting, sowing and planting

— packing and preparation for market, for example drying, cleaning, grinding, disinfecting and ensilage of agricultural products

— storage of agricultural products

— stock minding, rearing and fattening

— hiring out, for agricultural purposes, of equipment normally used in agricultural, forestry or fisheries undertakings

— technical assistance

— destruction of weeds and pests, dusting and spraying of crops and land

— operation of irrigation and drainage equipment

— lopping, tree felling and other forestry services

ANNEX C [1]

COMMON METHOD OF CALCULATION

I. For the purposes of calculating the value added for all agricultural, forestry and fisheries undertakings, the following shall be taken into account exclusive of value added tax:

1. the value of the total final production including farmers' own consumption of the classes 'agricultural products and game' and 'wood in the rough' as set out in points IV and V below, plus the output of the processing activities referred to in point V of Annex A;

2. the value of the total inputs required to achieve the production referred to in (1);

3. the value of the gross fixed-asset formation in connection with the activities listed in Annexes A and B.

II. To determine the deductible taxable inputs and outputs of flat-rate farmers, the inputs and outputs of farmers taxed under the normal value added tax scheme shall be deducted from the national accounts, taking into account the same factors as those in paragraph I.

III. The value added for flat-rate farmers is equal to the difference between the value of total final production, exclusive of value added tax, as referred to in point I (1), and the total value of inputs as referred to in point I (2) together with gross fixed-asset formation as referred to in point I (3). All these factors relate to flat-rate farmers only.

IV. AGRICULTURAL PRODUCTS AND GAME

	SOEC code number
Cereals (excluding rice)	
Wheat and spelt	10.01.11 1 10.01.19 1
Winter wheat and spelt	—
Spring wheat	—
Durum wheat	10.01.51 10.01.59
Winter wheat	—
Spring wheat	—
Rye and meslin	
Rye	10.02.00
Winter rye	—
Spring rye	—
Meslin	10.01.11 2 10.01.19 2

[1] The classification used in this Annex is that used in the Economic Accounts for Agriculture of the Statistical Office of the European Communities (SOEC).

	SOEC code number	
Barley	10.03.10 10.03.90	
Spring barley	—	
Winter barley	—	
Oats and summer meslin		
Oats	10.04.10 10.04.90	
Summer meslin	—	
Maize	10.05.10 10.05.92	
Other cereals (excluding rice)		
Buckwheat	10.07.10	
Millet	10.07.91	
Grain sorghum	10.07.95	
Canary seed	10.07.96	
Cereals, not elsewhere specified (excluding rice)	10.07.99	
Rice (in the husk or paddy)	10.06.11	
Pulses		
Dried peas and fodder peas	07.05.11	
Dried peas (other than for fodder)	—	
Dried peas (excluding chick peas)	—	
Chick peas	—	
Fodder peas	—	
Haricot beans, broad and field beans		
Haricot beans	07.05.15	
Broad and field beans	07.05.95	
Other pulses		
Lentils	07.05.91	
Vetches	12.03.31	2
Lupins	12.03.49	2
Dried pulses not elsewhere specified, pulse mixtures and cereal and pulse mixtures	07.05.97	
Roots (brassicas group for fodder)		
Potatoes		
Potatoes (excluding seed potatoes)		
New potatoes	07.01.13 07.01.15	
Main crop potatoes	07.01.17 07.01.19	
Seed potatoes	07.01.11	
Sugar beet	12.04.11	

	SOEC code number	
Mangolds and fodder beet; swedes, fodder carrots and fodder turnips; other roots and fodder brassicas		
Mangolds and fodder beet		
Swedes, fodder carrots, fodder turnips	12.10.10	
Swedes		
Fodder carrots, fodder turnips		
Fodder cabbages and kales	12.10.99	2
Other roots and fodder brassicas		
Jerusalem artichokes	07.06.10	
Sweet potatoes	07.06.50	
Roots and fodder brassicas not elsewhere specified	07.06.30	
	12.10.99	3
Industrial crops		
Oil seeds and oleaginous fruit (excluding olives)		
Colza and rape seed	12.01.91	
Winter colza	—	
Summer colza	—	
Rape	—	
Sunflower seed	12.01.95	
Soya beans	12.01.40	
Castor seed	12.01.50	
Linseed	12.01.61 12.01.69	
Sesame, hemp, mustard and poppy seed		
Sesame seed	12.01.97	
Hemp seed	12.01.94	
Mustard seed	12.01.92	
Oil poppy and poppy seed	12.01.93	
Fibre plants		
Flax	54.01.10	
Hemp	57.01.10	
Unmanufactured tobacco (including dried tobacco)	24.01.10 24.01.90	
Hops	12.06.00	
Other industrial crops		
Chicory roots	12.05.00	
Medicinal plants, aromatics, spices and plants for perfume extraction		
Saffron	09.10.31	
Caraway	07.01.82	
Medicinal plants, aromatics, spices and plants for perfume extraction not elsewhere specified	09.09 (11-13-15-17-18) 09.10 (11-20-51-55-71) 12.07 (10-20-30-40-50-60-70-80-91-99)	
Fresh vegetables		
Cabbages for human consumption		
Cauliflowers	07.01.21 07.01.22	

	SOEC code number	
Other cabbages		
Brussels sprouts	07.01.26	
White cabbages Red cabbages	07.01.23	
Savoy cabbages Green cabbages Cabbages not elsewhere specified	07.01.27	1
Leaf and stalk vegetables other than cabbages		
Celery and celeriac	07.01.51 07.01.53 07.01.97	2
Leeks	07.01.68	
Cabbage lettuces	07.01.31 07.01.33	
Endives	07.01.36	1
Spinach	07.01.29	
Asparagus	07.01.71	
Witloof chicory	07.01.34	
Artichokes	07.01.73	
Other leaf and stalk vegetables		
Corn salad	07.01.36	2
Cardoons and edible thistle	07.01.37	
Fennel	07.01.91	
Rhubarb Cress Parsley Broccoli Leaf and stalk vegetables not elsewhere specified	07.01.97	1
Vegetables grown for fruit		
Tomatoes	07.01.75 07.01.77	
Cucumbers and gherkins	07.01.83 07.01.85	
Melons	08.09.10	
Aubergines, marrows and pumpkins, courgettes	07.01.95	
Sweet capsicum	07.01.93	
Other vegetables grown for fruit	07.01.97	3
Root and tuber crops		
Kohlrabi	07.01.27	2
Turnips Carrots	07.01.54	
Garlic	07.01.67	
Onions and shallots	07.01 (62-63-66)	
Beetroot (red beet) Salsify and scorzonera Other root and tuber crops (chives, radishes, French turnips, horse radishes)	07.01.56 07.01.59	
Pod vegetables	07.01.41	
Green peas	07.01.43	

	SOEC code number
Beans	07.01.45 07.01.47
Other pod vegetables	07.01.49
Cultivated mushrooms	07.01.87
Fresh fruit, including citrus fruit (excluding grapes and olives)	
Dessert apples and pears	
Dessert apples	08.06 (13-15-17)
Dessert pears	08.06 (36-38)
Cider apples and perry pears	
Cider apples	08.06.11
Perry pears	08.06.32
Stone fruit	
Peaches	08.07.32
Apricots	08.07.10
Cherries	08.07 (51-55)
Plums (including greengages, mirabelles and quetsches)	08.07 (71-75)
Other stone fruit	08.07.90
Nuts	
Walnuts	08.05.31
Hazelnuts	08.05.91
Almonds	08.05.11 08.05.19
Chestnuts	08.05.50
Other nuts (excluding tropical nuts)	
Pistaches	08.05.70
Nuts not elsewhere specified	08.05.97 1
Other tree fruits	
Figs	08.03.10
Quinces	08.06.50
Other tree fruits, not elsewhere specified (excluding tropical fruit)	08.09.90 1
Strawberries	08.08 (11-15)
Berries	
Blackcurrants and red currants	
Blackcurrants	08.08.41
Red currants	08.08.49 1
Raspberries	
Gooseberries	08.08.90 1
Other berries (e.g. cultivated blackberries)	08.09.90 2
Citrus fruit	
Oranges	08.02 (21-22-24-27)
Mandarins and clementines	08.02 (32-36)
Lemons	08.02.50
Grapefruit	08.02.70

	SOEC code number
Other citrus fruit	08.02.90
Citrons	—
Limes	—
Bergamots	—
Citrus fruit not elsewhere specified	—
Grapes and olives	
Grapes	
Table grapes	08.04 (21-23)
Other grapes (for wine-making, fruit juice production and processing into raisins)	08.04 (25-27)
Olives	
Table olives	07.01.78
Other olives (for olive oil production)	07.01.79 07.03.13
Other crop products	
Fodder crops (1)*	12.10.99 1
Nursery products	
Fruit trees and bushes	06.02 (19-40-51-55)
Vine slips	06.02 (10-30)
Ornamental trees and shrubs	06.02 (71-75-79-98)
Forest seedlings and cuttings	06.02.60
Vegetable materials used primarily for plaiting	
Osier, rushes, rattans	14.01 (11-19-51-59)
Reeds, bamboos	14.01 (31-39)
Other vegetable materials used primarily for plaiting	14.01.90
Flowers, ornamental plants and Christmas trees	
Flower bulbs, corms and tubers	06.01.10
Ornamental plants	06.01 (31-39) 06.03 (11-15-90) 06.04 (20-40-50) 06.04.90
Cut flowers, branches and foliage	
Christmas trees	
Perennial plants	06.02.92
Seeds	
Agricultural seeds (2)	06.02.95 12.03 (11-19-35-39-44-46-84-86-89) 12.03.31 1 12.03.49 1
Flower seeds	12.03.81

(1) E.g. hay; clover (excluding brassicas).
(2) Excluding cereal seeds, rice seeds and seed potatoes.

	SOEC code number
Products gathered in the wild (1)	07.01 (88-89) 08.05.97 2 08.08.31 08.08.35 08.08.49 2 08.08.90 2 23.06.10 1
By-products from cultivation (2) of:	
Cereals (excluding rice)	12.08 (10-31)
Rice	12.08.90
Pulses	12.09.00
Root crops	13.03.12
Industrial crops	14.02 (10-21-23-25-29)
Fresh vegetables	14.03.00
Fruit and citrus fruit	14.04.00
Grapes and olives	14.05 (11-19)
Other crops	15.16.10 23.06.10 2 23.06.30 13.01.00
Crop products not elsewhere specified	
Grape must and wine	
Grape must	22.04.00
Wine	22.05 (21-25-31-35-41-44-45-47-51-57-59-61-69)
By-products of wine production (3)	23.05.00
Olive oil	
Pure olive oil (4)	15.07.06
Olive oil, unrefined (4)	15.07 (07-08)
By-products of olive oil extraction (5)	23.04.05
Cattle	
Domestic cattle	01.02 (11-13-14-15-17)
Calves	—
Other cattle, less than one year old	—
Heifers	—
Cows	—
Male breeding animals	
One to two years old	—
More than two years old	—

(1) E.g. wild mushrooms, cranberries, bilberries, blackberries, wild raspberries, etc.
(2) E.g. straw, beet and cabbage tops, pea and bean husks.
(3) E.g. wine lees, argol, etc.
(4) The distinction between these two products is based on the method of processing rather than on different production stages.
(5) E.g. olive oil cakes and other residual products of olive oil extraction.

	SOEC code number
Cattle for slaughtering and fattening	
One to two years old	—
More than two years old	—
Pigs	
Domestic pigs	01.03 (11-15-17)
Piglets	—
Young pigs	—
Pigs for fattening	—
Sows and gilts for breeding	—
Breeding boars	—
Equines	
Horses	01.01 (11-15-19)
Donkeys	01.01.31
Mules and hinnies	01.01.50
Sheep and goats	
Domestic sheep	01.04 (11-13)
Domestic goats	01.04.15
Poultry, rabbits, pigeons and other animals	
Hens, cocks, cockerels, pullets, chicks	01.05 (10-91)
Ducks	01.05.93
Geese	01.05.95
Turkeys	01.05.97
Guinea fowl	01.05.98
Domestic rabbits	01.06.10
Domestic pigeons	01.06.30
Other animals	
Bees	—
Silkworms	—
Animals reared for fur	—
Snails (excluding sea-snails)	03.03.66
Animals not elsewhere specified	01.06.99 02.04.99 1
Game and game meat	
Game [1]	01.01.39 01.02.90 01.03.90 01.04.90 01.06.91
Game meat	02.04.30

[1] Live game includes only specially reared game and other game kept in captivity.

	SOEC code number
Milk, untreated	
Cows' milk	—
Ewes' milk	—
Goats' milk	—
Buffalo milk	—
Eggs	
Hens' eggs	
Hatching eggs	04.05.12 1
Other	04.05.14
Other eggs	
Hatching eggs	04.05.12 2
Other	04.05.16 04.05.18
Other livestock products	
Raw wool (including animal hair (1))	53.01 (10-20) 53.02 (93-95)
Honey	04.06.00
Silkworm cocoons	50.01.00
By-products of livestock production (2)	15.15.10 43.01 (10-20-30-90)
Livestock products not elsewhere specified	53.02.97
Agricultural services (3)	
Agricultural products almost exclusively imported	
Tropical oil seeds and oleaginous fruit	
Groundnuts	12.01.11 12.01.15
Copra	12.01.20
Palm nuts and kernels	12.01.30
Cotton seed	12.01.96
Oil seeds and oleaginous fruit not elsewhere specified	12.01.99
Tropical fibre plants	
Cotton	55.01.00
Other fibre plants	
Manila hemp	57.02.00
Jute	57.03.10
Sisal	57.04.10
Coir	57.04.30

(1) If it is a principal product.
(2) E.g. skins and animal hair and pelts of slaughtered game, wax, manure, liquid manure.
(3) I.e. services which are normally provided by agricultural holdings themselves, e.g. ploughing, mowing and reaping threshing, tobacco drying, sheep-shearing, care of animals.

	SOEC code number
Ramie	54.02.00
Fibre plants, not elsewhere specified	57.04.50
Other tropical plants for industrial use	
Coffee	09.01.11
Cocoa	18.01.00
Sugar cane	12.04.30
Tropical fruit	
Tropical nuts	
Coconuts	08.01.75
Cashew nuts	08.01.77
Brazil nuts	08.01.80
Pecans	08.05.80
Other tropical fruit	
Dates	08.01.10
Bananas	08.01 (31-35)
Pineapples	08.01.50
Papaws	08.08.50
Tropical fruit, not elsewhere specified	08.01 (60-99)
Ivory, unpolished	05.10.00

V. WOOD IN THE ROUGH

Coniferous timber for industrial uses

Coniferous long timber

— 1 logs
  (1) fir, spruce, douglas
  (2) pine, larch
— 2 mine timber
  (1) fir, spruce, douglas
  (2) pine, larch
— 3 other long timber
  (1) fir, spruce, douglas
  (2) pine, larch

Coniferous plywood

— 1 fir, spruce, douglas
— 2 pine, larch

Coniferous firewood

Fir, spruce, douglas
Pine, larch

Leaf-wood for industrial uses

Long timber (leaf-wood)

— 1 logs
  (1) oak
  (2) beech
  (3) poplar
  (4) other

— 2 mine timber
  (1) oak
  (2) other
— 3 other long timber
  (1) oak
  (2) beech
  (3) poplar
  (4) other

Plywood (leaf)
— 1 oak
— 2 beech
— 3 poplar
— 4 other

Firewood (leaf)
  oak
  beech
  poplar
  other

Forestry services [1]

Other products (e.g. bark, cork, resin)

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[1] I.e. services which are usually performed by forestry undertakings themselves (e.g. felling of timber).

ANNEX D

LIST OF THE ACTIVITIES REFERRED TO IN THE THIRD PARAGRAPH OF ARTICLE 4 (5)

1. Telecommunications
2. The supply of water, gas, electricity and steam
3. The transport of goods
4. Port and airport services
5. Passenger transport
6. Supply of new goods manufactured for sale
7. The transactions of agricultural intervention agencies in respect of agricultural products carried out pursuant to Regulations on the common organization of the market in these products
8. The running of trade fairs and exhibitions
9. Warehousing
10. The activities of commercial publicity bodies
11. The activities of travel agencies
12. The running of staff shops, cooperatives and industrial canteens and similar institutions
13. Transactions other than those specified in Article 13 A (1) (q), of radio and television bodies

ANNEX E

TRANSACTIONS REFERRED TO IN ARTICLE 28 (3) (A)

1. Transactions referred to in Article 13 A (1) (a) in so far as they relate to parcel post services
2. Transactions referred to in Article 13 A (1) (e)
3. Transactions referred to in Article 13 A (1) (f) other than those of groups of a medical or paramedical nature
4. Transactions referred to in Article 13 A (1) (m)
5. Transactions referred to in Article 13 A (1) (n)
6. Transactions referred to in Article 13 A (1) (p)
7. Transactions referred to in Article 13 A (1) (q)
8. Transactions referred to in Article 13 B (d) (2) in so far as they relate to the services of intermediaries
9. Transactions referred to in Article 13 B (d) (5) in so far as they relate to the services of intermediaries
10. Transactions referred to in Article 13 B (d) (6)
11. Supplies covered by Article 13 B (g) in so far as they are made by taxable persons who were entitled to deduction of input tax on the building concerned
12. Supplies of goods referred to in Article 15 (2)
13. Transactions referred to in Article 15 (6) and (9)
14. Supplies referred to in Article 15 (12)
15. The services of travel agents referred to in Article 26, and those of travel agents acting in the name and on account of the traveller, for journeys outside the Community

ANNEX F

TRANSACTIONS REFERRED TO IN ARTICLE 28 (3) (B)

1. Admission to sporting events

2. Services supplied by authors, artists, performers, lawyers and other members of the liberal professions, other than the medical and paramedical professions, in so far as these are not services specified in Annex B to the second Council Directive of 11 April 1967

3. Supply of services by means of agricultural machinery for individual or associated agricultural undertakings

4. Supply of greyhounds and thoroughbred horses

5. Telecommunications services supplied by public postal services and supplies of goods incidental thereto

6. Services supplied by undertakers and cremation services, together with goods related thereto

7. Transactions carried out by blind persons or workshops for the blind provided these exemptions do not give rise to significant distortion of competition

8. The supply of goods and services to official bodies responsible for the construction, setting out and maintenance of cemeteries, graves and monuments commemorating war dead

9. Treatment of animals by veterinary surgeons

10. Transactions of hospitals not covered by Article 13 A (1) (b)

11. Services of experts in connection with insurance claim assessments

12. The supply of water by public authorities

13. Management of credit and credit guarantees by a person or a body other than the one which granted the credits

14. Debt collection

15. The safekeeping and management of shares, interests in companies and associations, debentures and other securities or negotiable instruments, excluding documents establishing title to goods or securities referred to in Article 5 (3)

16. Supplies of those buildings and land described in Article 4 (3)

17. Passenger transport

    The transport of goods such as luggage or motor vehicles accompanying passengers and the supply of services related to the transport of passengers, shall only be exempted in so far as the transport of the passengers themselves is exempt

18. The supply, modification, repair, maintenance, chartering and hiring of commercial inland waterway vessels and the supply, hiring, repair and maintenance of equipment incorporated or used therein

19. Supplies of some capital goods after the expiry of the adjustment period for deductions

20. Supplies of recuperable material and fresh industrial waste

21. Goods for the fuelling and provisioning of private boats, proceeding outside the national territory

22. Goods for the fuelling and provisioning of aircraft for private use proceeding outside the national territory

23. The supply, modification, repair, maintenance, chartering and hiring of aircraft, including equipment incorporated or used therein, used by State institutions

24. The transport of goods on the Rhine and the canalized Moselle, and transactions linked thereto

25. The supply, modification, repair, maintenance, chartering and hiring of warships

26. Transactions concerning gold other than gold for industrial use

27. The services of travel agents referred to in Article 26, and those of travel agents acting in the name and on account of the traveller, for journeys within the Community

ANNEX G

RIGHT OF OPTION

1. The right of option referred to in Article 28 (3)(c) may be granted in the following circumstances:

   (a) in the case of transactions specified in Annex E:

   Member States which already exempt these supplies but also give right of option for taxation, may maintain this right of option

   (b) in the case of transactions specified in Annex F:

   Member States which provisionally maintain the right to exempt such supplies may grant taxable persons the right to opt for taxation

2. Member States already granting a right of option for taxation not covered by the provisions of paragraph 1 above may allow taxpayers exercising it to maintain it until at the latest the end of three years from the date the Directive comes into force.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DIRECTIVE

of 4 November 1977

laying down detailed rules for implementing certain provisions of Directive 76/308/EEC on mutual assistance for the recovery of claims resulting from operations forming part of the system of financing the European Agricultural Guidance and Guarantee Fund, and of agricultural levies and customs duties

(77/794/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 76/308/EEC of 15 March 1976 on mutual assistance for the recovery of claims resulting from operations forming part of the system of financing the European Agricultural Guidance and Guarantee Fund, and of agricultural levies and customs duties [1], and in particular Article 22 (1) thereof,

Whereas the abovementioned Directive introduced a system of mutual assistance between the competent authorities of Member States for the purpose of supplying the applicant authority with all the information which it needs, for notifying the addressee concerned of instruments and decisions which are applicable, for the taking of precautionary measures, and for the recovery by the requested authority of claims on behalf of the applicant authority;

Whereas the detailed rules of operation of such mutual assistance must be laid down in each of these fields in order to render it fully effective;

Whereas the measures provided for in this Directive are in accordance with the opinion of the Committee on Recovery,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. This Directive lays the detailed rules for implementing Articles 4 (2) and (4), 5 (2) and (3), 7 (1), (3) and (5), 9 and 12 (1) of Directive 76/308/EEC, hereinafter called 'the basic Directive'.

2. This Directive also lays down the detailed rules on conversion, transfer of sums recovered and the fixing of a minimum amount for claims which may give rise to a request for assistance.

TITLE I

Request for information

Article 2

1. The request for information referred to in Article 4 of the basic Directive shall be made out in

[1] OJ No L 73, 19. 3. 1976, p. 18.

writing in accordance with the model in Annex I. The said request shall bear the official stamp of the applicant authority and shall be signed by an official thereof duly authorized to make such a request.

2. The applicant authority shall, where appropriate, indicate in its request for information the name of any other requested authority to which a similar request for information has been addressed.

Article 3

The request for information may relate to

(a) the debtor; or

(b) any person liable for settlement of the claim under the law in force in the Member State where the applicant authority is situated.

Where the applicant authority knows that a third party holds assets belonging to one of the persons mentioned in the foregoing paragraph, the request may also relate to that third party.

Article 4

The requested authority shall acknowledge receipt of the request for information in writing (if possible by telex) as soon as possible and in any event within seven days of such receipt.

Article 5

1. The requested authority shall transmit each item of requested information to the applicant authority as and when it is obtained.

2. Where all or part of the requested information cannot be obtained within a reasonable time, having regard to the particular case, the requested authority shall so inform the applicant authority, indicating the reasons therefor.

In any event, at the end of six months from the date of acknowledgement of receipt of the request, the requested authority shall inform the applicant authority of the outcome of the investigations which it has conducted in order to obtain the information requested.

In the light of the information received from the requested authority, the applicant authority may request the latter to continue its investigations. This request shall be made in writing (if possible by telex) within two months from the receipt of the notification of the outcome of the investigations carried out by the requested authority, and shall be treated by the requested authority in accordance with the provisions applying to the initial request.

Article 6

When the requested authority decides not to comply with the request for information addressed to it, it shall notify the applicant authority in writing of the reasons for the refusal to comply with the request, specifying the particular provisions of Article 4 of the basic Directive which it invokes. This notification shall be given by the requested authority as soon as it has taken its decision and in any event within six months from the date of the acknowledgement of the receipt of the request.

Article 7

The applicant authority may at any time withdraw the request for information which it has sent to the requested authority. The decision to withdraw shall be transmitted to the requested authority in writing (if possible by telex).

TITLE II

Request for notification

Article 8

The request for notification referred to in Article 5 of the basic Directive shall be made out in writing in duplicate in accordance with the model in Annex II. The said request shall bear the official stamp of the applicant authority and shall be signed by an official thereof duly authorized to make such a request.

Two copies of the instrument (or decision), notification of which is requested, shall be attached to the request referred to in the foregoing paragraph.

Article 9

The request for notification may relate to any natural or legal person who, in accordance with the law in force in the Member State where the applicant authority is situated, shall be informed of any instrument or decision which concerns him.

Article 10

1. Immediately upon receipt of the request for notification, the requested authority shall take the necessary measures to effect that notification in accordance with the law in force in the Member State in which it is situated.

2. The requested authority shall inform the applicant authority of the date of notification as soon as this has been done, by returning to it one of the copies of its request with the certificate on the reverse side duly completed.

TITLE III

Request for recovery and/or for the taking of precautionary measures

Article 11

1. The request for recovery and/or for the taking of precautionary measures referred to in Articles 6 and 13 of the basic Directive shall be made out in writing in accordance with the model Annex III. The request, which shall include a declaration that the conditions laid down in the basic Directive for initiating the mutual assistance procedure in the particular case have been fulfilled, shall bear the official stamp of the applicant authority and shall be signed by an official thereof duly authorized to make such a request.

2. The instrument permitting enforcement which shall accompany the request for recovery and/or for the taking of precautionary measures may be issued in respect of several claims where it concerns one and the same person.

For the purposes of Articles 12 to 19, all claims which are covered by the same instrument permitting enforcement shall be deemed to constitute a single claim.

Article 12

1. The request for recovery and/or for the taking of precautionary measures may relate to

(a) the debtor; or

(b) any person liable for settlement of the claim under the law in force in the Member State in which it is situated.

2. Where appropriate, the applicant authority shall inform the requested authority of any assets of the persons referred to in paragraph 1 which to its knowledge are held by a third party.

Article 13

1. The applicant authority shall state the amounts of the claim to be recovered both in the currency of the Member State in which it is situated and also in the currency of the Member State in which the requested authority is situated.

2. The rate of exchange to be used for the purposes of paragraph 1 shall be the latest selling rate recorded on the most representative exchange market or markets of the Member State in which the applicant authority is situated on the date when the request for recovery is signed.

Article 14

The requested authority shall acknowledge receipt of the request for recovery and/or for the taking of precautionary measures in writing (if possible by telex) as soon as possible and in any event within seven days of its receipt.

Article 15

Where, within a reasonable time having regard to the particular case, all or part of the claim cannot be recovered or precautionary measures cannot be taken, the requested authority shall so inform the applicant authority, indicating the reasons therefor.

In any event, at the end of one year from the date of acknowledgement of the receipt of the request, the requested authority shall inform the applicant authority of the outcome of the procedure which it has undertaken for recovery and/or for the taking of precautionary measures.

In the light of the information received from the requested authority, the applicant authority may request the latter to continue the procedure which it has undertaken for recovery and/or for the taking of precautionary measures. This request shall be made in writing (if possible by telex) within two months from the receipt of the notification of the outcome of the procedure undertaken by the requested authority for recovery and/or for the taking of precautionary measures, and shall be treated by the requested authority in accordance with the provisions applying to the initial request.

Article 16

Any action contesting the claim or the instrument permitting its enforcement which is taken in the Member State in which the applicant authority is situated shall be notified to the requested authority in writing (if possible by telex) by the applicant authority immediately after it has been informed of such action.

Article 17

1. If the request for recovery and/or for the taking of precautionary measures becomes nugatory as a result of payment of the claim or of its cancellation or for any other reason, the applicant authority shall immediately inform the requested authority in

writing (if possible by telex) so that the latter may stop any action which it has undertaken.

2. Where the amount of the claim which is the subject of the request for recovery and/or for the taking of precautionary measures is amended for any reason, the applicant authority shall immediately inform the requested authority in writing (if possible by telex).

If the amendment consists of a reduction in the amount of the claim, the requested authority shall continue the action which it has undertaken with a view to recovery and/or to the taking of precautionary measures, but that action shall be limited to the amount still outstanding if, at the time the requested authority is informed of the reduction of the amount of the claim, the original amount has already been recovered by it but the transfer procedure referred to in Article 18 has not yet been initiated, the requested authority shall repay the amount overpaid to the person entitled thereto.

If the amendment consists of an increase in the amount of the claim, the applicant authority shall as soon as possible address to the requested authority an additional request for recovery and/or for the taking of precautionary measures. This additional request shall, as far as possible be dealt with by the requested authority at the same time as the original request of the applicant authority. Where, in view of the state of progress of the existing procedure, the joinder of the additional request and the original request is not possible, the requested authority shall only be required to comply with the additional request if it concerns an amount not less than that referred to in Article 20.

3. To convert the amended amount of the claim into the currency of the Member State in which the requested authority is situated, the applicant authority shall use the exchange rate used in its original request.

Article 18

Any sum recovered by the requested authority, including, where applicable, the interest referred to in Article 9 (2) of the basic Directive, shall be the subject of a transfer to the applicant authority in the currency of the Member State in which the requested authority is situated. This transfer shall take place within one month of the date on which the recovery was effected.

Article 19

Irrespective of any amounts collected by the requested authority by way of interest referred to in Article 9 (2) of the basic Directive, the claim shall be deemed to have been recovered in proportion to the recovery of the amount expressed in the national currency of the Member State in which the requested authority is situated, on the basis of the exchange rate referred to in Article 13 (2).

TITLE IV

General and final provisions

Article 20

1. A request for assistance may be made by the applicant authority in respect of either a single claim or several claims where these are recoverable from one and the same person.

2. No request for assistance may be made if the amount of the relevant claim or claims is less than 750 European units of account.

Article 21

Information and other particulars communicated by the requested authority to the applicant authority shall be made out in the official language or one of the official languages of the Member State in which the requested authority is situated.

Article 22

The Member States shall bring into force not later than 1 January 1978 the measures necessary to comply with this Directive.

Article 23

Each Member State shall inform the Commission of the measures which it takes for implementing this Directive. The Commission shall communicate such information to the other Member States.

Article 24

This Directive is addressed to the Member States.

Done at Brussels, 4 November 1977.

For the Commission

Étienne DAVIGNON

Member of the Commission

ANNEX I

DIRECTIVE 76/308/EEC

(Article 4)

(Description of the applicant authority, address, telephone, telex and bank account numbers, etc....)

.....
(Place and date of sending request)

.....
(File reference of applicant authority)

To

.....
(Name of the authority to whom the request is sent, Post Box, place etc...)

.....

.....

(Space reserved for the authority to whom the request is sent)

REQUEST FOR INFORMATION

I, the undersigned, ... acting as the agent duly authorized by the applicant authority
(Name and official capacity)
indicated above, hereby request the following information to be obtained in accordance with Article 4 of Directive 76/308/EEC:

Information relating to the person concerned (1)	Information relating to the claim(s)	Information requested
(a) Name and address { known (*) / assumed (*)	— Amount (exclusive of interest and costs)	
(b) Other relevant information concerning the above person	— Exact nature of the claim(s)	
— principal debtor		
— co-debtor	— Other information	
— third party holding assets		
	Other requested authorities	
		..... (Signature)
		(Official stamp)

(*) Delete as appropriate.
(1) Natural or legal person.

ANNEX II

DIRECTIVE 76/308/EEC

(Article 5)

(Description of the applicant authority, address, telephone, telex and bank account numbers, etc....)

.....
(Place and date of sending request)

.....
(File reference of applicant authority)

To

.....
(Name of the authority to whom the request is sent, Post Box, place etc...)

.....

.....

(Space reserved for the authority to whom the request is sent)

REQUEST FOR NOTIFICATION

I, the undersigned ..... acting as the agent duly authorized by the applicant authority indicated
(Name and official capacity)
above, hereby request notification, pursuant to Article 5 of Directive 76/308/EEC, of the following instrument/decision (*):

Information relating to the person concerned (1)	Nature and subject of the instrument (or decision) to be notified	Information relating to the claim(s)	Other information
(a) Name and address { known (*) / assumed (*)		— Amount of the claim(s) (including any interest and costs)	
(b) Name and address of the principal debtor if different from addressee		— Exact nature of the claim(s)	
(c) Other information		— Other information	
			..... (Signature)
			(Official stamp)

(*) Delete as appropriate.
(1) Natural or legal person.

CERTIFICATE

The undersigned hereby certifies:

— that the instrument/decision (*) attached to the request overleaf has been notified to the addressee referred to in the said request dated ..... The notification was made in the following manner (1) (*):

— that the instrument/decision (*) attached to the request overleaf was not able to be notified to the addressee referred to in the said request for the following reasons (*):

.....
(Date)

.....
(Signature)

(Official stamp)

(*) Delete as appropriate.
(1) Indicate exactly whether the notification was made to the addressee in person or by another procedure.

ANNEX III

DIRECTIVE 76/308/EEC

(Articles 6 to 13)

(Description of the applicant authority, address, telephone, telex and bank account numbers, etc....)

.....
(Place and date of sending request)

.....
(File reference of applicant authority)

To

.....
(Name of the authority to whom the request is sent, Post Box, place etc....)

.....

.....

(Space reserved for the authority to whom the request is sent)

REQUEST FOR RECOVERY / PRECAUTIONARY MEASURES TO BE TAKEN (*)

I, the undersigned ..... acting as the agent duly authorized by the applicant authority
(Name and official capacity)
indicated above, hereby request:

— recovery of the following claim(s) covered by the attached unit of execution pursuant to Article 7 of Directive 76/308/EEC; the conditions of Article 7 (2) (a) and (b) are satisfied (*)

— precautionary measures to be taken, pursuant to Article 13 of Directive 76/308/EEC, in respect of the person mentioned below concerning the claim(s) covered by the attached unit of execution; I attach hereto a statement of the reasons for this request (*)

Information relating to the person concerned (1)	Information relating to the claim(s)				
	Exact nature of the claim(s)	Amount expressed in the currency of the Member State in which the applicant authority is situated	Amount expressed in the currency of the Member State in which the requested authority is situated	Rate of exchange used	Other information
(a) Name and address { known (*) / assumed (*)		Amount of principal (2)			Date on which enforcement becomes possible
(b) Other relevant information — principal debtor		Amount of interest up to the date of signature of this document (2)			Period of limitation
— co-debtor		Amount of costs up to the date of signature of this document (2)			Assets of the debtor held by a third party
— third party holding assets		Total		..... (Signature)	
Details of documents attached:				(Official stamp)	

(*) Delete as appropriate.
(1) Natural or legal person.
(2) Where the unit of execution is general, indicate the amounts of the different claims.

27. 12. 77 Official Journal of the European Communities No L 336/15

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 19 December 1977

concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation

(77/799/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

Having regard to the opinion of the Economic and Social Committee (2),

Whereas practices of tax evasion and tax avoidance extending across the frontiers of Member States lead to budget losses and violations of the principle of fair taxation and are liable to bring about distortions of capital movements and of conditions of competition; whereas they therefore affect the operation of the common market;

Whereas, for these reasons the Council adopted on 10 February 1975 a resolution on the measures to be taken by the Community in order to combat international tax evasion and avoidance (3);

Whereas the international nature of the problem means that national measures, whose effect does not extend beyond national frontiers, are insufficient; whereas collaboration between administrations on the basis of bilateral agreements is also unable to counter new forms of tax evasion and avoidance, which are increasingly assuming a multinational character;

Whereas collaboration between tax administrations within the Community should therefore be strengthened in accordance with common principles and rules;

Whereas the Member States should, on request, exchange information concerning particular cases; whereas the State so requested should make the necessary enquiries to obtain such information;

Whereas the Member States should exchange, even without any request, any information which appears relevant for the correct assessment of taxes on income and on capital, in particular where there appears to be an artificial transfer of profits between enterprises in different Member States or where such transactions are carried out between enterprises in two Member States through a third country in order to obtain tax advantages, or where tax has been or may be evaded or avoided for any reason whatever;

Whereas it is important that officials of the tax administration of one Member State be allowed to be present in the territory of another Member State if both the States concerned consider it desirable;

(1) OJ No C 293, 13. 12. 1976, p. 34.
(2) OJ No C 56, 7. 3. 1977, p. 66.
(3) OJ No C 35, 14. 2. 1975, p. 1.

Whereas care must be taken to ensure that information provided in the course of such collaboration is not disclosed to unauthorized persons, so that the basic rights of citizens and enterprises are safeguarded; whereas it is therefore necessary that the Member States receiving such information should not use it, without the authorization of the Member State supplying it, other than for the purposes of taxation or to facilitate legal proceedings for failure to observe the tax laws of the receiving State; whereas it is also necessary that the receiving States afford the information the same degree of confidentiality which it enjoyed in the State which provided it, if the latter so requires;

Whereas a Member State which is called upon to carry out enquiries or to provide information shall have the right to refuse to do so where its laws or administrative practices prevent its tax administration from carrying out these enquiries or from collecting or using this information for its own purposes, or where the provision of such information would be contrary to public policy or would lead to the disclosure of a commercial, industrial or professional secret or of a commercial process, or where the Member State for which the information is intended is unable for practical or legal reasons to provide similar information;

Whereas collaboration between the Member States and the Commission is necessary for the permanent study of cooperation procedures and the pooling of experience in the fields considered, and in particular in the field of the artificial transfer of profits within groups of enterprises, with the aim of improving those procedures and of preparing appropriate Community rules,

HAS ADOPTED THIS DIRECTIVE:

Article 1

General provisions

1. In accordance with the provisions of this Directive the competent authorities of the Member States shall exchange any information that may enable them to effect a correct assessment of taxes on income and on capital.

2. There shall be regarded as taxes on income and on capital, irrespective of the manner in which they are levied, all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the disposal of movable or immovable property, taxes on the amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

3. The taxes referred to in paragraph 2 are at present, in particular:

in Belgium:

Impôt des personnes physiques/Personenbelasting

Impôt des sociétés/Vennootschapsbelasting

Impôt des personnes morales/Rechtspersonenbelasting

Impôt des non-résidents/Belasting der niet-verblijfhouders

in Denmark:

Indkomstskaten til staten

Selsskabsskat

Den kommunale indkomstskat

Den amtskommunale indkomstskat

Folkepensionsbidragene

Sømandsskatten

Den særlige indkomstskat

Kirkeskatten

Formueskatten til staten

Bidrag til dagpengefonden

in Germany:

Einkommensteuer

Körperschaftsteuer

Vermögensteuer

Gewerbesteuer

Grundsteuer

in France:

Impôt sur le revenu

Impôt sur les sociétés

Taxe professionnelle

Taxe foncière sur les propriétés bâties

Taxe foncière sur les propriétés non bâties

in Ireland:

Income tax

Corporation tax

Capital gains tax

Wealth tax

in Italy:

Imposta sul reddito delle persone fisiche

Imposta sul reddito delle persone giuridiche

Imposta locale sui redditi

in Luxembourg:

Impôt sur le revenu des personnes physiques

Impôt sur le revenu des collectivités

Impôt commercial communal

Impôt sur la fortune

Impôt foncier

in the Netherlands:

Inkomstenbelasting

Vennootschapsbelasting

Vermogensbelasting

in the United Kingdom:

Income tax

Corporation tax

Capital gains tax

Petroleum revenue tax

Development land tax

4. Paragraph 1 shall also apply to any identical or similar taxes imposed subsequently, whether in addition to or in place of the taxes listed in paragraph 3. The competent authorities of the Member States shall inform one another and the Commission of the date of entry into force of such taxes.

5. The expression 'competent authority' means:

in Belgium:

De minister van financiën or an authorized representative

Le ministre des finances or an authorized representative

in Denmark:

Ministeren for skatter og afgifter or an authorized representative

in Germany:

Der Bundesminister der Finanzen or an authorized representative

in France:

Le ministre de l'économie or an authorized representative

in Ireland:

The Revenue Commissioners or their authorized representative

in Italy:

Il Ministro per le finanze or an authorized representative

in Luxembourg:

Le ministre des finances or an authorized representative

in the Netherlands:

De minister van financiën or an authorized representative

in the United Kingdom:

The Commissioners of Inland Revenue or their authorized representative

Article 2

Exchange on request

1. The competent authority of a Member State may request the competent authority of another Member State to forward the information referred to in Article 1 (1) in a particular case. The competent authority of the requested State need not comply with the request if it appears that the competent authority of the State making the request has not exhausted its own usual sources of information, which it could have utilized, according to the circumstances, to obtain the information requested without running the risk of endangering the attainment of the sought after result.

2. For the purpose of forwarding the information referred to in paragraph 1, the competent authority of the requested Member State shall arrange for the conduct of any enquiries necessary to obtain such information.

Article 3

Automatic exchange of information

For categories of cases which they shall determine under the consultation procedure laid down in Article 9, the competent authorities of the Member States shall regularly exchange the information referred to in Article 1 (1) without prior request.

Article 4

Spontaneous exchange of information

1. The competent authority of a Member State shall without prior request forward the information

referred to in Article 1 (1), of which it has knowledge, to the competent authority of any other Member State concerned, in the following circumstances:

(a) the competent authority of the one Member State has grounds for supposing that there may be a loss of tax in the other Member State;

(b) a person liable to tax obtains a reduction in or an exemption from tax in the one Member State which would give rise to an increase in tax or to liability to tax in the other Member State;

(c) business dealings between a person liable to tax in a Member State and a person liable to tax in another Member State are conducted through one or more countries in such a way that a saving in tax may result in one or the other Member State or in both;

(d) the competent authority of a Member State has grounds for supposing that a saving of tax may result from artificial transfers of profits within groups of enterprises;

(e) information forwarded to the one Member State by the competent authority of the other Member State has enabled information to be obtained which may be relevant in assessing liability to tax in the latter Member State.

2. The competent authorities of the Member States may, under the consultation procedure laid down in Article 9, extend the exchange of information provided for in paragraph 1 to cases other than those specified therein.

3. The competent authorities of the Member States may forward to each other in any other case, without prior request, the information referred to in Article 1 (1) of which they have knowledge.

Article 5

Time limit for forwarding information

The competent authority of a Member State which, under the preceding Articles, is called upon to furnish information, shall forward it as swiftly as possible. If it encounters obstacles in furnishing the information or if it refuses to furnish the information, it shall forthwith inform the requesting authority to this effect, indicating the nature of the obstacles or the reasons for its refusal.

Article 6

Collaboration by officials of the State concerned

For the purpose of applying the preceding provisions, the competent authority of the Member State providing the information and the competent authority of the Member State for which the information is intended may agree, under the consultation procedure laid down in Article 9, to authorize the presence in the first Member State of officials of the tax administration of the other Member State. The details for applying this provision shall be determined under the same procedure.

Article 7

Provisions relating to secrecy

1. All information made known to a Member State under this Directive shall be kept secret in that State in the same manner as information received under its domestic legislation.

In any case, such information:

— may be made available only to the persons directly involved in the assessment of the tax or in the administrative control of this assessment,

— may in addition be made known only in connection with judicial proceedings or administrative proceedings involving sanctions undertaken with a view to, or relating to, the making or reviewing the tax assessment and only to persons who are directly involved in such proceedings; such information may, however, be disclosed during public hearings or in judgments if the competent authority of the Member State supplying the information raises no objection,

— shall in no circumstances be used other than for taxation purposes or in connection with judicial proceedings or administrative proceedings involving sanctions undertaken with a view to, or in relation to, the making or reviewing the tax assessment.

2. Paragraph 1 shall not oblige a Member State whose legislation or administrative practice lays down, for domestic purposes, narrower limits than those contained in the provisions of that paragraph, to provide information if the State concerned does not undertake to respect those narrower limits.

3. Notwithstanding paragraph 1, the competent authorities of the Member State providing the information may permit it to be used for other purposes in the requesting State, if, under the legislation of the informing State, the information could, in similar circumstances, be used in the informing State for similar purposes.

4. Where a competent authority of a Member State considers that information which it has received from the competent authority of another Member State is likely to be useful to the competent authority of a third Member State, it may transmit it to the latter competent authority with the agreement of the competent authority which supplied the information.

Article 8

Limits to exchange of information

1. This Directive shall impose no obligation to have enquiries carried out or to provide information if the Member State, which should furnish the information, would be prevented by its laws or administrative practices from carrying out these enquiries or from collecting or using this information for its own purposes.

2. The provision of information may be refused where it would lead to the disclosure of a commercial, industrial or professional secret or of a commercial process, or of information whose disclosure would be contrary to public policy.

3. The competent authority of a Member State may refuse to provide information where the State concerned is unable, for practical or legal reasons, to provide similar information.

Article 9

Consultations

1. For the purposes of the implementation of this Directive, consultations shall be held, if necessary in a Committee, between:

— the competent authorities of the Member States concerned at the request of either, in respect of bilateral questions,

— the competent authorities of all the Member States and the Commission, at the request of one of those authorities or the Commission, in so far as the matters involved are not solely of bilateral interest.

2. The competent authorities of the Member States may communicate directly with each other. The competent authorities of the Member States may by mutual agreement permit authorities designated by them to communicate directly with each other in specified cases or in certain categories of cases.

3. Where the competent authorities make arrangements on bilateral matters covered by this Directive other than as regards individual cases, they shall as soon as possible inform the Commission thereof. The Commission shall in turn notify the competent authorities of the other Member States.

Article 10

Pooling of experience

The Member States shall, together with the Commission, constantly monitor the cooperation procedure provided for in this Directive and shall pool their experience, especially in the field of transfer pricing within groups of enterprises, with a view to improving such cooperation and, where appropriate, drawing up a body of rules in the fields concerned.

Article 11

Applicability of wider-ranging provisions of assistance

The foregoing provisions shall not impede the fulfilment of any wider obligations to exchange information which might flow from other legal acts.

Article 12

Final provisions

1. Member States shall bring into force the necessary laws, regulations and administrative provisions in order to comply with this Directive not later than 1 January 1979 and shall forthwith communicate them to the Commission.

2. Member States shall communicate to the Commission the texts of any important provisions of

national law which they subsequently adopt in the field covered by this Directive.

Article 13

This Directive is addressed to the Member States.

Done at Brussels, 19 December 1977.

For the Council

The President

G. GEENS

27. 12. 77 Official Journal of the European Communities No L 336/21

COUNCIL DIRECTIVE

of 19 December 1977

on a derogation accorded to the Kingdom of Denmark relating to the rules governing turnover tax and excise duty applicable in international travel

(77/800/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof,

Having regard to the proposal from the Commission,

Whereas, pursuant to Annex VII, Part V 1 (a) to Article 133 of the Act of Accession, the Kingdom of Denmark was granted a derogation regarding the application of certain provisions of Council Directive 69/169/EEC of 28 May 1969 on the harmonization of provisions laid down by law, regulation of administrative action relating to exemption from turnover tax and excise duty on imports in international travel [1], amended by Council Directive 72/230/EEC [2]; whereas this derogation was extended by Directive 76/134/EEC [3] and Directive 77/82/EEC [4] adopted pursuant to the provisions of Annex VII, Part V 1 (c) of the Act of Accession; whereas, pursuant to Article 9 (2) of the Act of Accession, the option to extend further this derogation on this basis expires on 31 December 1977;

Whereas the Danish Government has asked that it be granted a further period in which to apply the harmonized rules stemming from Directive 69/169/EEC;

Whereas progress in the attainment of economic and monetary union and, in particular, in fiscal harmonization does not yet allow the full application of such rules in Denmark without the risk of serious economic consequences;

Whereas, therefore, the Kingdom of Denmark should be authorized to maintain provisionally the exceptional arrangements which it has enjoyed hitherto; whereas, however, in order to facilitate adaptation, provision should be made over a five-year period, for the gradual approximation of these arrangements to the harmonized Community rules,

HAS ADOPTED THIS DIRECTIVE:

Article 1

By way of derogation from Directive 69/169/EEC, the Kingdom of Denmark shall have the right, in respect of exemption for imports of tobacco products, alcoholic beverages (distilled beverages and spirits of an alcoholic strength exceeding 22°) and beer (if the quantity exceeds two litres):

(a) to maintain the rules currently in force up to and including 31 December 1979, where such goods are imported by travellers who are not resident in Denmark and whose stay in Denmark is for less than 24 hours;

(b) to apply the following quantitative limits, where such goods are imported by travellers resident in Denmark, after a stay in another country:

— until 31 December 1980, when the stay is less than 72 hours, and from 1 January 1981 to 31 December 1982, when the stay is less than 48 hours:

cigarettes (until 31 December 1981)	40
(from 1 January 1982 to 31 December 1982)	60
or	
cigarillos (cigars of a maximum weight of 3 g each)	20
or	
cigars	20
or	
smoking tobacco	100 g

(1) OJ No L 133, 4. 6. 1969, p. 6.
(2) OJ No L 139, 17. 6. 1972, p. 28.
(3) OJ No L 21, 29. 1. 1976, p. 9.
(4) OJ No L 23, 27. 1. 1977, p. 50.

distilled beverages and spirits of an alcoholic strength exceeding 22°	nil
beer	two litres.

Article 2

The Kingdom of Denmark shall communicate to the Commission the texts of the measures which it adopts in order to enable the rules provided for in this Directive to enter into force with effect from 1 January 1978.

Article 3

This Directive is addressed to the Kingdom of Denmark.

Done at Brussels, 19 December 1977.

For the Council

The President

G. GEENS

27. 12. 77 Official Journal of the European Communities No L 336/1

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC, EURATOM, ECSC) No 2891/77

of 19 December 1977

implementing the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 78h thereof,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 209 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 183 thereof,

Having regard to the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (1), hereinafter referred to as 'the Decision of 21 April 1970', and in particular Article 6 (2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Court of Auditors,

Whereas the Treaty of 22 July 1975 amending certain financial provisions of the Treaties establishing the European Communities and of the Treaty establishing a single Council and a single Commission of the European Communities entered into force on 1 June 1977;

Whereas the own resources system established by the Decision of 21 April 1970 will be fully applied as from 1978;

Whereas the Communities are to have disposal over the own resources referred to in Article 4 of the Decision of 21 April 1970 which must necessarily be allocated to them within the limits of the establishments recorded;

Whereas, however, as regards own resources accruing from value added tax, hereinafter called 'VAT resources', the application of Article 22 of sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — common system of value added tax: uniform basis of assessment (3) may create inequalities between the Member States in the making available of the said resources; whereas this source of inequality should be eliminated by laying down that all Member States must make available to the Communities the budget estimate of these resources in the form of fixed monthly twelfths subject to subsequent adjustment of the amounts made available in accordance with the actual VAT assessment basis as soon as it is fully known;

Whereas the own resources may be made available in the form of an entry of the amounts due in an account opened for this purpose in the name of the Commission with the Treasury or with the body appointed by each Member State; whereas in order to restrict the movements of funds to that which is necessary for the implementation of the budget, the Communities may confine themselves to applying levies on the abovementioned accounts intended to cover solely the Commission's cash requirements;

Whereas it is appropriate to specify the balance to be carried over to the following financial year and the conditions under which the revenue and the balance to be carried forward will be allocated to the budget;

(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No C 266, 7. 11. 1977, p. 50.
(3) OJ No L 145, 13. 6. 1977, p. 1.

Whereas, in order to guarantee, in every instance, the financing of the Communities' budget, the procedure for making available the contributions based on the gross national product, specified in Article 4 (2) and (3) of the Decision of 21 April 1970, should be laid down;

Whereas the Member States must keep at the disposal of the Commission and where necessary forward to it the documents and information needed to exercise the powers conferred upon it as regards the Communities' own resources and the budgetary procedure;

Whereas the Member States should arrange for verifications and inquiries relating to the establishment and the making available of own resources; whereas the Commission should exercise its powers in accordance with this Regulation;

Whereas a new unit of account, called the 'European unit of account', will be introduced in the budget as from 1978;

Whereas close cooperation between Member States and the Commission will facilitate the application of this Regulation, which aims at enabling the Communities to dispose of their own resources under the best possible conditions;

Whereas the full application of the own resources system involves a general amendment of Council Regulation (EEC, Euratom, ECSC) No 2 71 of 2 January 1971 implementing the Decision of 21 April 1970 on the replacement of financial contributions from the Member States by the Communities' own resources (1); whereas it consequently appears necessary to replace this Regulation,

HAS ADOPTED THIS REGULATION:

TITLE I

General provisions

Article 1

The Communities' own resources within the meaning of the Decision of 21 April 1970, hereinafter called 'own resources', shall be established by Member States in accordance with their own provisions laid down by law, regulation or administrative action and shall be made available to the Commission and inspected as specified in this Regulation, without prejudice to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (2).

Article 2

For the purpose of applying this Regulation, an entitlement shall be deemed to be established as soon as the corresponding claim has been duly determined by the appropriate department or agency of the Member State.

Where it becomes necessary to rectify an establishment recorded in accordance with the first paragraph, the competent department or agency of the Member State shall make a new establishment.

Article 3

Member States shall take all appropriate measures to ensure that the supporting documents concerning the establishment and the making available of own resources are kept for at least three calendar years, as from the end of the year to which these supporting documents refer.

Article 4

1. Each Member State shall inform the Commission, at the latter's request:

(a) of the names of the departments or agencies responsible for establishing own resources and, where appropriate, their status;

(b) of the general provisions laid down by law, regulation or administrative action and those relating to accounting procedure concerning the establishment of own resources and their being made available to the Commission.

2. The Commission shall, at the request of the other Member States, pass to them the information referred to in paragraph 1.

Article 5

Each Member State shall draw up yearly a summary account together with a report on the establishment and inspection of own resources and shall forward this to the Commission before 1 July of the year following the financial year in question.

(1) OJ No L 3, 5. 1. 1971, p. 1.

(2) See page 8 of this Official Journal.

Article 6

The rate referred to in the second subparagraph of Article 4 (1) of the Decision of 21 April 1970 shall be laid down in the budget of the Communities. It shall be expressed as a figure to four decimal places and calculated as a percentage of the estimated assessment basis for the value added tax (VAT) in such a manner that it fully covers that part of the budget not financed from customs duties, agricultural levies, miscellaneous revenue and, where appropriate, financial contributions based on gross national product (GNP).

TITLE II

Accounts for own resources

Article 7

1. Accounts for own resources shall be kept by the Treasury of each Member State or by the body appointed by each Member State and broken down by type of resources.

2. The established entitlements shall be entered in the accounts at the latest on the 20th day of the second month following the month during which the entitlements were established.

VAT resources shall however be included in the accounts as follows:

— on the first working day of each month, the twelfth referred to in Article 10 (3),

— annually, as regards the balance referred to in Article 10 (4).

3. Each Member State shall forward to the Commission a monthly statement of its accounts.

Article 8

The new establishments recorded under the second paragraph of Article 2 shall be entered in the monthly return corresponding to the date of these establishments and shall be added to or subtracted from the total amount of established entitlements.

TITLE III

Making available own resources

Article 9

1. The amount of own resources established shall be credited by each Member State to the account opened for this purpose in the name of the Commission with its Treasury or with the body it has appointed.

However, the VAT resources and, where appropriate, the financial contributions based on GNP shall be entered in accordance with the procedure laid down in Article 10 (3) and (4).

This account shall be kept free of charge.

2. Each amount shall be entered gross. In the 30 days following notification of any entry, the Commission shall issue a transfer order in favour of the Member State for the amounts corresponding to the standard refund for the expenses incurred in collection as referred to in the fifth subparagraph of Article 3 (1) of the Decision of 21 April 1970.

3. The amounts entered shall be converted by the Commission into, and entered in its accounts in European units of account (EUA) on the basis of the quotations obtaining on the last day corresponding to the time limit for entry or on the first preceding day for which such quotations are available.

Article 10

1. The entry referred to in Article 9 (1) shall be made at the latest by the 20th day of the second month following the month during which the entitlement was established.

2. If necessary, Member States may be invited by the Commission to bring forward by one month the entering of resources other than VAT resources on the basis of the information available to them on the 15th of the same month.

Each entry brought forward shall be adjusted the following month when the entry mentioned in paragraph 1 is made. This adjustment shall entail the negative entry of an amount equal to that given in the entry brought forward.

3. Nevertheless, the VAT resources or, where appropriate, the financial contributions based on GNP, shall be entered on the first working day of each month, the amount being one-twelfth of the total resulting from the budget in this connection.

Any change in the rate of VAT or, if appropriate, in the financial contributions based on GNP shall be occasioned by the final adoption of a supplementary or amending budget and shall give rise to a readjustment of the twelfths which have been entered since the beginning of the financial year.

This readjustment shall be carried out when the first entry is made following the final adoption of the supplementary or amending budget.

Calculation of the one-twelfth for the month of January of each financial year shall be based on the amounts provided for in the draft budget; this amount shall be adjusted when the next month's entry is made. If the budget has not been finally adopted before the beginning of the financial year, the twelfths shall similarly be calculated from the amounts entered in the draft budget; the adjustment shall be made on the first due date following the final adoption of the budget.

4. Each Member State shall, on the basis of the annual statement of VAT resources provided for in Article 10 (1) of Regulation (EEC, Euratom, ECSC) No 2892/77, be debited with an amount calculated from the information contained in the said statement by applying the rate adopted for the previous financial year and credited with the 12 payments made during that previous financial year. The Commission shall work out the balance and shall inform the Member States in good time in order that the latter may enter it in the account referred to in Article 9 (1) of this Regulation on the first working day of August of the same year.

5. With effect from 1 January 1979, those Member States having entered financial contributions based on GNP during the previous financial year shall, on the due dates given in paragraph 3 and by the same method, adjust the said contributions so as to restore, in the light of the actual yield from VAT resources, the original distribution in the budget between the latter and the financial contributions based on GNP.

6. The operations referred to in paragraphs 4 and 5 constitute modifications to revenue in respect of the financial year in which they occur.

Article 11

Any delay in making the entry in the account referred to in Article 9 (1) shall give rise to the payment of interest by the Member State concerned at a rate equal to the highest rate of discount ruling in the Member States on the due date. That rate shall be increased by 0·25 of a percentage point for each month of delay. The increased rate shall be applied to the entire period of delay.

TITLE IV

Management of cash resources

Article 12

1. The Commission shall draw on the sums credited to the accounts referred to in Article 9 (1) to the extent necessary to cover its cash resource requirements arising out of the implementation of the budget.

2. If the cash resource requirements are in excess of the assets of the accounts, the Commission may draw in excess of the total of these assets. In this event, it shall inform the Member States in advance of any foreseeable excess requirements.

3. The difference between the overall assets and the cash resource requirements shall be divided among the Member States, as far as possible, in proportion to the estimated budget revenue from each of them.

4. The orders and instructions which the Commission sends to the Treasury or to the appropriate department of each Member State shall be carried out as soon as possible.

TITLE V

Procedure for the application of Article 4 (2) and (3) of the Decision of 21 April 1970

Article 13

1. This Article shall apply where it may be necessary to implement the provisional derogations provided for in Article 4 (2) and (3) of the Decision of 21 April 1970.

2. The gross national product at market prices shall be calculated on the basis of statistics compiled by the Statistical Office of the European Communities and corresponding, for each Member State, to the arithmetical average of the first three years of the five-year period preceding the financial year in respect of which the provisions of Article 4 (2) and (3) of the Decision of 21 April 1970 have been applied.

3. The gross national product for each reference year shall be calculated in terms of the EUA on the basis of the average rate of the EUA for the year in question.

4. As long as the derogation provided for in Article 4 (2) of the Decision of 21 April 1970 applies to one or more Member States, the Commission shall, in its preliminary draft budget, fix the estimated percentage of the budget corresponding to the financial contribution(s) of those Member States on the basis of the proportion of their GNP to the sum total of the gross national products of the Member States, and shall fix the VAT rate corresponding to the remainder of the budget to be provided by the other Member States. These figures shall be approved in accordance with budgetary procedure.

Article 14

For the purpose of this Regulation:

(a) the gross national product at market prices is equivalent to the gross domestic product at market prices plus compensation of employees, property and entrepreneurial income from the rest of the world less the corresponding flows towards the rest of the world;

(b) the gross domestic product at market prices, which represents the final result of the production activity at resident producer units, is equivalent to the total production of goods and services by the economy, less total intermediate consumption, plus taxes linked to imports.

TITLE VI

Procedure for the application of Article 4 (5) of the Decision of 21 April 1970

Article 15

For the purpose of applying Article 4 (5) of the Decision of 21 April 1970, the balance of a given financial year shall consist of the difference between:

— all the revenue collected in respect of that financial year, and

— the amount of payments made against appropriations for that financial year increased by the amount of the appropriations for the same financial year carried over pursuant to Articles 6 and 95 of the Financial Regulation.

This difference shall be increased or decreased by the net amount resulting from cancellations of appropriations carried forward from previous financial years, and of sums paid in excess of these appropriations as a result of the exchange rate adjustments which occurred between the time when the amount of carryover was determined and the time it was used.

Furthermore, the balance of the 1978 financial year shall be increased by the surplus or reduced by the deficit appearing when, on 1 January 1978, the balance sheet drawn up in units of account on 31 December 1977 is revalued in European units of account.

Article 16

1. The Commission shall, before the end of October in each financial year, make an estimate of the own resources collected for the entire year, on the basis of the data at its disposal at that time.

If appreciable differences from the original estimates appear, the former shall give rise to a letter of amendment relating to the draft budget for the following financial year.

2. At the time of the transactions referred to in Article 10 (4) and (5), the estimate of revenue given in the budget of the current financial year shall be increased or reduced in a ratifying budget by the differences resulting from those operations.

TITLE VII

Provisions concerning inspection measures

Article 17

1. Member States shall take all requisite measures to ensure that the amount corresponding to the entitlements established under Articles 1 and 2 are made available to the Commission as specified in this Regulation.

2. Member States shall be free from the obligation to place at the disposal of the Commission the amounts corresponding to established entitlements solely if, for reasons of *force majeure* these amounts have not been collected.

3. Every six months, Member States shall report to the Commission, where appropriate within the framework of existing procedures, comprehensive information and questions of principle concerning the most important problems arising out of the application of this Regulation and in particular matters in dispute.

Article 18

1. Member States shall carry out the verifications and inquiries concerning the establishment and the making available of own resources. The Commission shall make use of its powers as specified in this Article.

2. Accordingly, Member States shall:

— carry out any additional inspection measures the Commission may ask for in a reasoned request,

— associate the Commission, at its request, with the inspection measures which they carry out.

Member States shall take all steps required to facilitate these inspection measures. Where the Commission is associated with these measures, Member States shall place at its disposal the supporting documents referred to in Article 3. In order to restrict additional

inspection measures to the minimum the Commission may, in specific cases, request that certain documents be forwarded to it.

3. The inspection measures referred to in paragraphs 1 and 2 shall not prejudice:

(a) the inspection measures undertaken by Member States in accordance with their own provisions laid down by law, regulation or administrative action;

(b) the measures provided for in Articles 206, 206a and 206b of the Treaty establishing the European Economic Community and Articles 180, 180a and 180b of the Treaty establishing the European Atomic Energy Community;

(c) the inspection arrangements made pursuant to Article 209 (c) of the Treaty establishing the European Economic Community and Article 183 (c) of the Treaty establishing the European Atomic Energy Community.

4. The Commission shall from time to time report to the European Parliament and to the Council on the functioning of the inspection arrangements.

Article 19

The provisions of Community law applicable to the sectors referred to in the first paragraph of Article 2 of the Decision of 21 April 1970, in particular regarding nomenclature, origin, value for customs purposes, Community transit and inward processing, shall be applied by the appropriate authorities of Member States when establishing own resources.

TITLE VIII

Provisions relating to the Advisory Committee on the Communities' Own Resources

Article 20

1. An Advisory Committee on the Communities' Own Resources, hereinafter called 'the Committee', is hereby set up.

2. The Committee shall consist of representatives of the Member States and of the Commission. Each Member State shall be represented on the Committee by not more than five officials.

The chairman of the Committee shall be a representative of the Commission.

The secretariat services for the Committee shall be provided by the Commission.

3. The Committee shall adopt its own rules of procedure.

Article 21

The Committee shall examine the question raised by its chairman on his own initiative or at the request of the representative of a Member State, which concern the application of this Regulation, in particular as regards:

(a) the information provided for in Articles 4 (1) (b), 5 and 18 (3);

(b) cases of *force majeure* referred to in Article 18 (2);

(c) inspection measures and examinations provided for in Article 19 (2).

TITLE IX

Final provisions

Article 22

The Commission shall, by 30 September 1979, submit a report on the implementation of this Regulation together with, where appropriate, any proposals for amendments thereto.

Article 23

The Council, acting unanimously on a proposal from the Commission, shall adopt the procedures for implementing this Regulation as and when necessary.

Article 24

Regulation (EEC, Euratom, ECSC) No 2/71 shall be repealed with effect from 1 January 1978. References to that Regulation should be understood as referring to the present Regulation.

Article 25

For the financial year 1978, the deadlines laid down in Articles 5 and 10 (4) shall be extended until 1 September 1979 and the first working day of October 1979 respectively.

Article 26

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities*.

It shall have effect from the financial year 1978.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 19 December 1977.

For the Council

The President

G. GEENS

COUNCIL REGULATION (EEC, EURATOM, ECSC) No 2892/77

of 19 December 1977

implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (1), and in particular Article 6 (2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Court of Auditors,

Whereas the Decision of 21 April 1970 provides that the Council must adopt provisions relating to the control, the making available to the Commission and the payment of own resources, together with the detailed rules for the application of Article 4 of that Decision;

Whereas Article 4 of the Decision of 21 April 1970 provides that the own resources accruing from value added tax hereinafter called 'VAT own resources' shall be obtained by applying a rate not exceeding 1 % to an assessment basis to be determined in a uniform manner for Member States according to Community rules; whereas these Community rules have been adopted in sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — common system of value added tax: uniform basis of assessment (3); whereas under the terms of the said Directive VAT own resources are to be levied on all the taxable transactions covered by Article 2 of that Directive with the exception of transactions exempted under Articles 13 to 16 of the same Directive;

Whereas the basis for VAT own resources must be determined in the light of these taxable transactions; whereas it is necessary to adopt detailed rules for determining this basis;

Whereas it is necessary to arrive at a uniform system for the levying of VAT own resources; whereas, it is desirable to prepare the introduction of this system; whereas to this end it is desirable to limit the time during which this Regulation shall have effect to a transitional period of five years; whereas in the course of this transitional period Member States should be allowed to choose between two methods of determining the assessment basis of these resources; whereas it is desirable to lay down the content and rules for the application of the definitive uniform system at the end of this transitional period;

Whereas it is necessary, in specific cases, to authorize the Member States to derogate from the general rules laid down for this purpose;

Whereas there should be a check on the way in which the Member States are applying certain provisions of this Regulation which allow for an appreciable margin of discretion; whereas a Community procedure should be laid down for this purpose;

Whereas in view of complexity of the problems which may arise in the implementation of this Regulation it appears necessary to arrange for close collaboration between the Member States and the Commission and to this end to arrange that such problems are discussed in the Advisory Committee on the Communities' Own Resources referred to in Article 20 of Council Regulation (EEC, Euratom, ECSC) No 2891/77 of 19 December 1977 (4);

Whereas Council Regulation (EEC, Euratom, ECSC) No 2891/77 lays down detailed rules for the accounting, payment, and control of own resources; whereas the present Regulation should lay down specific provisions for VAT own resources,

HAS ADOPTED THIS REGULATION:

TITLE I

GENERAL PROVISIONS

Article 1

The amount accruing to the Communities' VAT own resources shall be determined by applying the Com-

(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No C 163, 11. 7. 1977, p. 62 and OJ No C 266, 7. 11. 1977, p. 50.
(3) OJ No L 145, 13. 6. 1977, p. 1.

(4) See page 1 of this Official Journal.

munity rate fixed under the budgetary procedure to the basis determined in accordance with the provisions of this Regulation.

Should this rate be changed in the course of a financial year as a result of a supplementary and/or amending budget, the new rate shall apply to the whole of the VAT resources basis for that financial year.

TITLE II

SCOPE

Article 2

1. The VAT own resources basis shall be determined from the taxable transactions referred to in Article 2 of Directive 77/388/EEC, with the exception of transactions exempted under Articles 13 to 16 of the said Directive.

2. For the purposes of applying paragraph 1 hereof, the following shall be taken into account for determining VAT own resources:

— transactions which, in accordance with Article 28 (2) of Directive 77/388/EEC are subject to exemptions with refund of the tax paid at the preceding stage,

— transactions which Member States continue to subject to tax pursuant to Article 28 (3) (a) of Directive 77/388/EEC,

— transactions which Member States continue to exempt pursuant to Article 28 (3) (b) of Directive 77/388/EEC,

— transactions which are taxed under the right of option granted to taxable persons by Member States pursuant to Article 28 (3) (c) of Directive 77/388/EEC.

3. By way of derogation from paragraph 1, transactions performed by taxable persons whose annual turnover, determined according to the rules laid down in Article 24 (4) of Directive 77/388/EEC does not exceed 10 000 EUA, this amount being determined in accordance with the conversion rates set out in Article 31 (2) of that Directive, shall not be taken into account for determining VAT own resources.

TITLE III

METHODS OF CALCULATION

Article 3

Rules for determining the assessment basis

To determine the assessment basis of VAT own resources with regard to a financial year, Member States shall apply either the method defined in Section A or that defined in Section B.

Member States shall inform the Commission before 31 December 1977 of the method they propose to apply.

Where a Member State intends changing the method it applies, it shall inform the Commission of its decision and of the underlying reasons before 1 October of the year preceding the financial year in which the other method would be applied.

The Commission shall communicate the information referred to in the second and third paragraphs to the Member States.

Section A

RULES FOR DETERMINING THE BASIS ACCORDING TO THE RETURNS METHOD

Article 4

1. The VAT own resources basis shall be the difference between:

— the total taxable amounts, as defined in Article 11 of Directive 77/388/EEC of the transactions to be taken into account pursuant to Article 2,

— and the total taxable amounts corresponding to the tax which may be deducted in accordance with Article 17 of the said Directive by taxable persons other than those referred to in Article 2 (3).

2. For the purposes of applying the first indent of Article 2 (2) hereof, the VAT own resources basis relating to the transactions referred to in Article 28 (2) of Directive 77/388/EEC shall be determined from the amounts which would have been taxed but for this provision.

3. Without prejudice to Article 9, the data relating to the above taxable amounts shall be established from the returns made by the taxable persons, drawn up in accordance with Article 22 (4) of Directive 77/388/EEC or by the persons liable for payment of the tax on importation, drawn up in accordance with Article 23 of the said Directive, or, in the absence of any such returns, owing to failure of the taxable person to fulfil his obligations, from the estimated assessment made by the competent authority of the Member State.

Article 5

1. The VAT own resources basis for taxable transactions by farmers using the common flat-rate scheme provided for by Article 25 of Directive

77/388/EEC shall be the added value calculated by the Member States in accordance with Annex C to that Directive.

The VAT own resources basis must be reduced by the amount of the transactions carried out by farmers in respect of which:

(a) they obtain flat-rate compensation in accordance with Article 25 (6) (b) of Directive 77/388/EEC, or

(b) they obtain no flat-rate compensation by reason of the option granted to the Member States by the first subparagraph of Article 25 (3) of the said Directive to reduce the flat-rate compensation percentages to zero.

Subparagraph 2 shall not apply to transactions which do not give rise to deduction of VAT in the hands of the purchaser or customer.

2. With regard to the transactions referred to in Article 24 (1) of Directive 77/388/EEC, the VAT own resources basis shall be determined from the returns to be furnished by taxable persons in accordance with Article 22 of the said Directive and, when there is no return, or the return does not contain the necessary information, from appropriate data such as: other tax returns, professional accounts, complete statistical series.

3. Without prejudice to the cases referred to in paragraph 2 hereof, where the information contained in the returns of taxable persons does not enable the VAT own resources basis to be determined with precision, Member States may be authorized under the procedure laid down in Article 13 either:

(a) to accept without amendment the information contained in the returns where the margin of error resulting from their use to determine the VAT own resources basis is negligible; or

(b) if the margin of error is not negligible, to apply to the information obtained from the returns a correcting factor calculated from appropriate data in order to determine the VAT own resources basis in a way which will only permit a negligible margin of error.

Section B

RULES FOR DETERMINING THE BASIS ACCORDING TO THE REVENUE METHOD

Article 6

For a given year, and without prejudice to Article 9, the VAT own resources basis shall be calculated by dividing the total net VAT revenue collected by a Member State by the rate, expressed as a fraction, at which VAT is levied during the same year.

If several VAT rates are applied in a Member State, the total net VAT revenue collected shall be divided by the average weighted rate of VAT expressed as a fraction. In this case, the Member State shall determine the weighted average rate, calculated to four decimal places, by applying the common method of calculation defined in Article 7.

Article 7

1. In order to calculate the weighting of the various rates as referred to in Article 6, the Member State shall break down, by rate of VAT applied, all transactions which are taxable under its national legislation and which do not give rise to deduction of VAT in the hands of a purchaser or customer taking into account Article 17 of Directive 77/388/EEC.

When this breakdown by rate is performed, a distinction shall be made between the following categories:

— final consumption of households on the territory referred to in Article 3 of Directive 77/388/EEC for the Member State in question and collective consumption by private non-profit institutions,

— current purchases of general government,

— gross fixed-capital formation of general government,

— gross fixed-capital formation of other sectors (where they are liable to non-deductible VAT),

— intermediate consumption (where liable to non-deductible VAT).

Transactions which are subject, pursuant to Article 28 (2) of Directive 77/388/EEC, to an exemption with reimbursement of the taxes paid at the previous stage shall be regarded as zero-rated transactions.

2. This breakdown by rate applied and by category shall be effected by means of data taken from national accounts, in accordance with 'the European system of integrated economic accounts', and broken down, if necessary, with the aid of appropriate data. In order to calculate the VAT own resources basis for any given financial year reference shall be made to the national accounts relating to the penultimate year preceding that financial year.

3. The weighting of each rate applied is thus equal to the ratio between, on the one hand, the value of the transactions relating to that rate and, on the other, the total value of these transactions as a whole.

4. A Member State which, during a financial year, amends the VAT rate applicable to all or some transactions or the tax treatment for certain transactions shall calculate the new average rate in good time. This new average rate shall be applied to the revenue derived from application of the amended rate or tax treatment.

Article 8

1. For the purposes of applying Article 6 Member States shall, if appropriate, add to the revenues actually collected an amount corresponding to the total revenue which would have been collected but for the application of a scheme of graduated tax relief granted pursuant to Article 24 (2) of Directive 77/388/EEC.

2. The revenue actually collected by a Member State shall be reduced by an amount corresponding to the total input tax, with the exeption of that relating to consumption on the farm and direct sales to final consumers, which flat-rate farmers have not recouped by virtue of the application by that Member State of the option to reduce the flat-rate compensation percentages applicable to transactions carried out by flat-rate farmers in accordance with Article 25 (3) of Directive 77/388/EEC.

Section C

COMMON PROVISIONS

Article 9

1. For the purposes of applying Article 2 (1) to the transactions carried out by taxable persons whose annual turnover exceeds 10 000 EUA but who are exempted under Article 24 (2) of Directive 77/388/EEC and to the cases referred to in paragraph 2 hereof, Member States shall determine the VAT own resources basis, from returns to be furnished by taxable persons in accordance with Article 22 of the said Directive and, when there is no return, or the return does not contain the necessary information, from appropriate data such as: other tax returns, professional accounts, complete statistical series.

2. For the purposes of applying the second, third and fourth indents of Article 2 (2):

— with regard to the transactions listed in Annex E to Directive 77/388/EEC which Member States continue to tax pursuant to Article 28 (3) (a) of the said Directive, Member States shall calculate the VAT own resources basis as if these transactions were exempted,

— with regard to the transactions listed in Annex F to Directive 77/388/EEC which Member States continue to exempt pursuant to Article 28 (3) (b) of the said Directive, Member States shall calculate the VAT own resources basis as if these transactions were taxed,

— with regard to the transactions referred to paragraphs (1) (a) and (2) of Annex G to Directive 77/388/EEC, which are taxed under the option granted to taxable persons by Member States, pursuant to Article 28 (3) (c) of the said Directive, Member States shall calculate the VAT own resources basis as if these transactions were exempted.

3. Under the procedure provided for in Article 13, a Member State may be authorized:

— either not to take into account in calculating the VAT resources basis:

  (a) one or more of the categories of transactions listed in Annexes E, F and G to Directive 77/388/EEC to which paragraph 2 hereof applies;

  (b) the amount corresponding to the tax which would have been collected but for the application of a scheme of graduated tax relief granted pursuant to Article 24 (2) of Directive 77/388/EEC,

— or to calculate the VAT own resources basis in the cases referred to in (a) and (b) by using approximate estimates,

where precise calculation of the VAT own resources basis in these cases would be likely to involve administrative burdens which would be unjustified in relation to the effect of the transactions in question on the total VAT own resources basis of that Member State.

Without prejudice to subparagraph 1 the Council acting by a qualified majority on a proposal from the Commission shall lay down the detailed rules for the implementation of this paragraph.

4. Where a Member State makes use of the second subparagraph of Article 17 (6), and of Article 17 (7) of Directive 77/388/EEC to restrict the exercise of the right to deduct, the VAT own resources basis may be determined as if the exercise of the right to deduct had not been restricted.

5. In the case of tax refunds granted by Member States pursuant to Article 6 of Council Directive 69/169/EEC of 28 May 1969 on the harmonization of provisions laid down by law, regulation or administrative action relating to exemption from turnover tax and excise duty on imports in international travel [1], as amended by Directive 72/230/EEC [2], the taxable amount of the transactions which gave rise to these refunds shall if necessary be subtracted from the VAT own resources basis.

TITLE IV

PROVISIONS RELATING TO THE ACCOUNTING AND MAKING AVAILABLE OF OWN RESOURCES

Article 10

1. The Member States shall, before 1 July, forward to the Commission a summary account indicating the total final amount of the basis relating to transactions for which tax has become chargeable in accordance with Article 10 of Directive 77/388/EEC during the previous calendar year and to which the rate referred to in Article 4 (1) of the Decision of 21 April 1970 shall apply.

This summary account shall indicate separately VAT resources resulting from the transactions referred to in Article 5 (1), (2) and (3), and Articles 8 and 9 (1) to (4) of this Regulation.

The time limit provided for above shall be extended to 1 September 1979 for the financial year 1978.

2. By way of derogation from the first subparagraph of paragraph 1:

— Member States which apply the method laid down in Section A of Title III may calculate the VAT own resources basis relating to transactions for which tax has become chargeable in accordance with Article 10 of Directive 77/388/EEC during a given calendar year from returns made by taxable persons or persons liable for the tax in accordance with Articles 22 (4) and 23 of the said Directive during the calendar year under consideration or any other continuous 12-month period to be determined by the Member States,

— Member States which apply the method laid down in Section B of Title III may calculate the VAT resources basis relating to transactions for which tax has become chargeable in accordance with Article 10 of Directive 77/388/EEC during a given calendar year from the total net VAT revenue collected during the calendar year under consideration or any other continuous 12-month period to be determined by the Member States.

A Member State which intends to avail itself of the option referred to in the first subparagraph shall notify its decision to the Commission which shall inform the Committee referred to in Article 13.

It is understood that this option may in no way call into question the time limit laid down in paragraph 1.

3. Any corrections to the basis shall be allocated to the financial year during which they are made.

4. Member States shall forward to the Commission by 30 April each year an estimate of the VAT own resources basis for the following financial year.

TITLE V

PROVISIONS CONCERNING MEASURES OF CONTROL

Article 11

1. In the case of the financial year 1978, Member States shall inform the Commission as soon as possible, and not later than 30 April 1978, of the solutions they propose to adopt to determine the VAT own resources basis for each of the categories of transactions referred to in Article 5 (2) and (3), and Articles 8 and 9 (1) to (4), indicating, where applicable, the nature of the data which they consider appropriate, and an estimate of the value of the assessment basis for each of these categories of transactions.

In the case of subsequent financial years, Member States shall, by 30 April, inform the Commission of the modifications they intend to make to the solutions referred to in the preceding subparagraph and shall give it an estimate of the value of the assessment basis for each of the categories of transactions referred to in Article 5 (2) and (3), and Articles 8 and 9 (1) to (4).

The Commission shall forward to the other Member States within a period of 30 days the information referred to above which it has received from each Member State.

2. The Commission shall examine in liaison with the competent national authorities any proposed solutions concerning the implementation of the

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[1] OJ No L 133, 4. 6. 1969, p. 6.
[2] OJ No L 139, 17. 6. 1972, p. 28.

provisions of Article 5 (2), and Articles 8 and 9 (1), (2) and (4).

Article 12

1. As regards VAT own resources, the Commission's checks shall be carried out with the competent authorities in the Member States. During these checks, the Commission shall ensure, in particular, that the operations to centralize the assessment basis and to determine the weighted average rate referred to in Articles 6 and 7 and also the total net VAT revenue collected have been carried out correctly, and shall ascertain that the data used were appropriate and that the calculations made to determine the amount of VAT resources resulting from the transactions referred to in Article 5 (2) and (3), and Articles 8 and 9 (1) to (4) comply with this Regulation.

2. Council Regulation (EEC, Euratom, ECSC) No 165/74 of 21 January 1974 determining the powers and obligations of officials appointed by the Commission pursuant to Article 14 (5) of Regulation (EEC, Euratom, ECSC) No 2/71 [1] shall apply to checks relating to VAT own resources. For the purposes of applying Article 5 of that Regulation, it shall be understood that the information referred to therein may be communicated only to those persons who, by virtue of their duties in making available and checking VAT resources, must have knowledge of such information.

Article 13

1. The Advisory Committee on the Communities' Own Resources referred to in Article 20 of Regulation (EEC, Euratom, ECSC) No 2891/77, hereinafter called 'the Committee', shall regularly examine, on the initiative of the Commission or at the request of a Member State, problems arising out of application of this Regulation.

2. Member States applying for the authorization provided for in Article 5 (3) or 9 (3), shall refer their application to the Commission as soon as possible and not later than 30 April of the financial year from which the authorization is to apply.

The Commission representative shall submit to the Committee as soon as possible and not later than 60 days after receipt of the application a draft of the decision to be taken. The Committee shall discuss the matter within a period to be fixed by the chairman depending on the urgency of the matter. The opinions of the Committee members shall be recorded in a report which shall be approved by the Committee within a period of 60 days, which period shall start to run from the notification to the Committee of the draft decision.

No later than 30 days following the approval of this report, the Commission shall adopt a decision which it shall communicate to the Member States and which shall apply after a period of 30 days if during this period no Member State has referred the matter to the Council.

The Council may, at the request of a Member State and acting by a qualified majority revise the Commission's decision.

The Commission's decision shall apply after a period of 60 days if the Council has not given a ruling within this period, calculated from the day on which the matter was referred to the Council.

3. On the initative of the Commission or at the request of a Member State, the Committee shall examine the solutions referred to in Article 11 (2).

If the Committee has not been convened within 120 days of the communication of the information referred to in the third subparagraph of Article 11 (1), or if the Committee's examination reveals no differences of opinion, the solution proposed by the Member State shall apply.

If the examination provided for in the first subparagraph should reveal differences of opinion as to the solutions selected, the Committee shall discuss these within a period to be fixed by the chairman depending on the urgency of the matter and in any case within 60 days of this examination. The opinions of the Committee members shall be recorded in a report which shall be approved by the Committee within 120 days of this examination.

No later than 30 days following the approval of this report, the Commission shall adopt a decision which it shall communicate to the Member States and which shall apply after a period of 30 days if during this period no Member State has referred the matter to the Council.

The Council may, at the request of a Member State and acting by qualified majority, revise the Commission's decision.

The Commission's decision shall take effect after a period of 60 days if the Council has not given a ruling within this period, calculated from the day on which the matter was referred to the Council.

TITLE VI

FINAL PROVISIONS

Article 14

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities*.

[1] OJ No L 20, 24. 1. 1974, p. 1.

It shall apply from 1 January 1978 for a transitional period expiring on 31 December 1982.

The Council, acting unanimously on a proposal from the Commission, shall adopt, before 30 June 1982, the provisions relating to the definitive uniform system for levying VAT resources and the detailed rules for implementing this system.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 19 December 1977.

For the Council

The President

G. GEENS

No L 338/22 Official Journal of the European Communities 28. 12. 77

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 19 December 1977

amending Directive 72/464/EEC on taxes, other than turnover taxes, which affect the consumption of manufactured tobacco

(77/805/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

Having regard to the opinion of the Economic and Social Committee (2),

Whereas, in accordance with Council Directive 72/464/EEC of 19 December 1972 on taxes, other than turnover taxes, which affect the consumption of manufactured tobacco (3), as amended by Directives 74/318/EEC (4), 75/786/EEC (5) and 76/911/EEC (6) the Council shall adopt, at least six months before the expiry of the first stage, a Directive laying down the special criteria to apply during the second stage;

Whereas the first stage expires on 31 December 1977; whereas a further extension of this stage has proved necessary;

Whereas the special criteria applicable during the first stage have made possible an initial approximation of the structures of the excise duties on cigarettes in seven of the nine Member States, without the tax revenue of the Member States or the conditions of their markets being appreciably affected;

Whereas the structure of the excise duty on cigarettes must include, in addition to a specific component calculated per unit of the product, a proportional component based on the retail selling price, inclusive of all taxes; whereas the turnover tax on cigarettes has the same effect as a proportional excise duty and this fact should be taken into account when the ratio between the specific component of the excise and the total tax burden is being established;

Whereas the special provisions to apply during the second stage should be laid down so as to guide the excise duties levied on cigarettes by the Member States towards a common structure;

Whereas Denmark should be granted the right to refrain from enforcing the provisions in Article 12 (1) of Directive 72/464/EEC in Greenland in view of that territory's special situation;

Whereas the introduction of the harmonized taxation system in the United Kingdom without any accompanying adaptation measures might conflict with the health policy applied by the United Kingdom Government;

Whereas the United Kingdom should therefore be authorized, by way of derogation from Article 4 (2) of Directive 72/464/EEC, to charge an additional excise duty on the most harmful cigarettes for a limited period of 30 months from the date of entry into force of the second stage;

(1) OJ No C 178, 2. 8. 1976, p. 11.
(2) OJ No C 204, 30. 8. 1976, p. 1.
(3) OJ No L 303, 31. 12. 1972, p. 1.
(4) OJ No L 180, 3. 7. 1974, p. 30.
(5) OJ No L 330, 24. 12. 1975, p. 51.
(6) OJ No L 354, 24. 12. 1976, p. 33.

Whereas the structure of the excise duty on manufactured tobacco other than cigarettes will be determined at a later date,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Article 4 (3) of Directive 72/464/EEC shall be replaced by the following:

'3. At the final stage of harmonization of structures, the same ratio shall be established for cigarettes in all Member States between the specific excise duty and the sum of the proportional excise duty and the turnover tax, in such a way that the range of retail selling prices reflects fairly the difference in the manufacturers' delivery prices.'

Article 2

In Article 7 (1) of Directive 72/464/EEC the words 'period of 54 months' shall be replaced by 'period of 60 months'.

Article 3

The following Title shall be inserted in Directive 72/464/EEC:

'TITLE IIa

Special provisions applicable during the second stage of harmonization

Article 10a

1. Without prejudice to the implementation of Article 1 (4), the second stage of harmonization of the structures of the excise duty on manufactured tobacco shall run from 1 July 1978 to 31 December 1980.

2. During this second stage of harmonization Article 10b shall apply.

Article 10b

1. The amount of the specific excise duty on cigarettes shall be established by reference to cigarettes in the most popular price category according to the information available at 1 January each year, beginning 1 January 1978.

2. The specific component of the excise duty may not be less than 5 % or more than 55 % of the amount of the total tax burden resulting from the aggregation of the proportional excise duty, the specific excise duty and the turnover tax levied on these cigarettes.

However, until 31 December 1978, Ireland may apply a specific element which may not be more than 60 % of the amount of the total tax burden.

3. If the excise duty or the turnover tax levied on the price category referred to above is amended after 1 January 1978, the amount of the specific excise duty shall be established by reference to the new total tax burden on the cigarettes referred to in paragraph 1.

4. Notwithstanding Article 4 (1), each Member State may exclude customs duties from the basis for calculating the proportional excise duty on cigarettes.

5. The Member States may levy on cigarettes a minimum excise duty, the amount of which may not exceed 90 % of the sum of the proportional excise duty and the specific excise duty which they levy on the cigarettes referred to in paragraph 1.

Article 10c

By way of derogation from Article 4 (2), the United Kingdom shall be authorized, for a period of 30 months from the date of entry into force of the second stage, to charge an additional excise duty on cigarettes whose tar yield is 20 mg or more.

The total tax burden on the cigarettes to which this additional excise duty applies may not exceed by more than 20 % the total tax burden which would have been imposed if the additional excise duty had not been levied. The ratio between the specific components of the excise duty and the total tax burden must be within the limits determined by this Directive.

Before the entry into force of the second stage, the United Kingdom shall inform the other Member States and the Commission of the method and the criteria used to determine the tar yield of cigarettes.'

Article 4

The following sentence shall be added to Article 12 (1) of Directive 72/464/EEC:

'Denmark may refrain from enforcing these provisions in Greenland.'

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 19 December 1977.

For the Council

The President

G. GEENS

No L 194/16 Official Journal of the European Communities 19. 7. 78

II

(Acts whose publication is not obligatory)

COUNCIL

NINTH COUNCIL DIRECTIVE

of 26 June 1978

on the harmonization of the laws of the Member States relating to turnover taxes

(78/583/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament [1],

Having regard to the opinion of the Economic and Social Committee [2],

Whereas Article 1 of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax : uniform basis of assessment [3] lays down 1 January 1978 as the latest date for the implementation of its provisions in Member States ;

Whereas Directive 77/388/EEC lays down common provisions for all fields covered by value added tax ; whereas, in many cases, it is incumbent upon the Member States to determine the conditions under which these provisions shall apply ; whereas, since the scope of Directive 77/388/EEC is so wide as to encompass a very large number of national regulations, several Member States have been unable to carry out the necessary adaptions in time to comply with Directive 77/388/EEC ; whereas these Member States have thus been unable to complete the legislative procedure necessary to adapt their legislation on value added tax within the time limit laid down ;

Whereas the Member States concerned have requested an extension of the time limit for the entry into force of Directive 77/388/EEC ; whereas in this context an extension for a maximum of 12 months should be sufficient,

HAS ADOPTED THIS DIRECTIVE :

Article 1

By way of derogation from Article 1 of Directive 77/388/EEC, Denmark, Germany, France, Ireland, Italy, Luxembourg and the Netherlands are hereby authorized to implement the said Directive by 1 January 1979 at the latest.

Article 2

This Directive is addressed to Denmark, Germany, France, Ireland, Italy, Luxembourg and the Netherlands.

Done at Luxembourg, 26 June 1978.

For the Council

The President

K. B. ANDERSEN

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(1) OJ No C 163, 10. 7. 1978, p. 68.
(2) Opinion delivered on 20/21 June 1978 (not yet published in the Official Journal).
(3) OJ No L 145, 13. 6. 1977, p. 1.

No L 366/28 Official Journal of the European Communities 28. 12. 78

II

(Acts whose publication is not obligatory)

COUNCIL

THIRD COUNCIL DIRECTIVE

of 19 December 1978

on the harmonization of provisions laid down by law, regulation or administrative action relating to the rules governing turnover tax and excise duty applicable in international travel

(78/1032/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 99 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas the action in respect of tax exemptions granted to individuals in international travel should be continued so that people in the Member States become more aware of the reality of the common market;

Whereas travel between Member States should be facilitated by an increase in exemptions from turnover tax and excise duty, the amounts of which, as fixed by Directive 69/169/EEC (4), as amended by Directive 72/230/EEC (5), have moreover been reduced, in real terms, by the rise in the cost of living in the Community as a whole;

Whereas the introduction of the European unit of account in the legal acts adopted by the institutions of the European Communities in the field of tax exemptions must not have the effect of reducing the amounts expressed in national currency at present eligible for exemption;

Whereas the rules governing tax remission at the retail stage should be harmonized in order to prevent instances of double taxation such as those resulting from the current provisions;

Whereas on account of the present economic situation a temporary derogation concerning both the unit value of goods to be imported into the Kingdom of Denmark and into Ireland and the quantitative restriction on still wines to be imported into the Kingdom of Denmark should be granted,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Article 2 of Directive 69/169/EEC is hereby amended as follows:

(a) Paragraph 1 shall be replaced by the following:

'1. Exemption from turnover tax and excise duty on imports shall apply to goods contained in the personal luggage of travellers coming from Member States of the Community provided that they fulfil the conditions laid down in Articles 9 and 10 of the Treaty, have been acquired subject

(1) OJ No C 31, 8. 2. 1977, p. 5.
(2) OJ No C 133, 6. 6. 1977, p. 44.
(3) OJ No C 114, 11. 5. 1977, p. 33.
(4) OJ No L 133, 4. 6. 1969, p. 6.
(5) OJ No L 139, 17. 6. 1972, p. 28.

to the general rules governing taxation on the domestic market of one of the Member States and have no commercial character and that the total value of the goods does not exceed 180 European units of account per person.'

(b) In paragraph 2, '30 units of account' shall be replaced by '50 European units of account'.

(c) In paragraph 3, '125 units of account' shall be replaced by '180 European units of account'.

(d) The following paragraphs shall be added:

'4. Where the travel referred to in paragraph 1:

— involves transit through the territory of a third country; overflying without landing shall not, however, be regarded as transit within the meaning of this Directive,

— begins in a part of the territory of another Member State in which turnover tax and/or excise duty is not chargeable on goods consumed within that territory,

the traveller must be able to establish that the goods transported in his luggage have been acquired subject to the general conditions governing taxation on the domestic market of a Member State and do not qualify for any refunding of turnover tax and/or excise duty, failing which Article 1 shall apply.

5. Under no circumstances may the total value of the goods exempted exceed the amount provided for in paragraph 1 or 2.'

Article 2

Article 4 of Directive 69/169/EEC is hereby amended as follows:

(a) In paragraph 1 (b), second indent, column II 'to a total of three litres' shall be replaced by 'to a total of four litres'.

(b) Paragraph 2 shall be replaced by the following:

'2. Exemption of the goods mentioned in paragraph 1 (a) and (b) shall not be granted to travellers under 17 years of age.

Exemption for the goods mentioned in paragraph 1 (d) shall not be granted to travellers under 15 years of age.'

(c) The following paragraphs shall be added:

'4. Where the travel referred to in Article 2 (1):

— involves transit through the territory of a third country; overflying without landing shall not, however, be regarded as transit within the meaning of this Directive,

— begins in a part of the territory of another Member State in which turnover tax and/or excise duty is not chargeable on goods consumed within that territory,

the traveller must be able to establish that the goods transported in his luggage have been acquired subject to the general conditions governing taxation on the domestic market of a Member State and do not qualify for any refunding of turnover tax and/or duty, failing which the quantities set out in paragraph 1, column I, shall apply.

5. Under no circumstances may the total quantity of goods exempted exceed the quantities provided for in paragraph 1, column II.'

Article 3

Article 6 of Directive 69/169/EEC is hereby amended as follows:

(a) Paragraph 2 shall be replaced by the following:

'2. Without prejudice to rules relating to sales made at airport shops under customs control and on board aircraft, Member States shall take the necessary steps with regard to sales at the retail stage to permit in the cases and under the conditions provided for in paragraphs 3 and 4 the remission of turnover tax on deliveries of goods carried in the personal luggage of travellers leaving a Member State. No remission may be granted in respect of excise duty.'

(b) The third subparagraph of paragraph 3 shall be replaced by the following:

'Member States may exclude their residents from the benefit of this tax remission.'

Article 4

Article 7 of Directive 69/169/EEC shall be replaced by the following:

'Article 7

1. For the purposes of this Directive, 'European unit of account' (EUA) shall be as defined in the Financial Regulation of 21 December 1977 (1).

2. The EUA equivalent in national currency which shall apply for the implementation of this Directive shall be fixed once a year. The rates applicable shall be those obtaining on the first working day of October with effect from 1 January of the following year.

3. Member States may round off the amounts in national currency resulting from the conversion of the amounts in EUA provided for in Articles 1 and 2, provided such rounding-off does not exceed 2 EUA.

4. Member States may maintain the amounts of the exemptions in force at the time of the annual adjustment provided for in paragraph 2 if, prior to the rounding-off provided for in paragraph 3, conversion of the amounts of the exemptions expressed in EUA would result in a change of less than 5 % in the exemption expressed in national currency.

(1) OJ No L 356, 31. 12. 1977, p. 1.

Article 5

1. By way of derogation from Article 2 (1) of Directive 69/169/EEC, as amended by Article 1 (a) of this Directive :

— the Kingdom of Denmark may, until 31 December 1981, exclude from tax exemption goods whose unit value is in excess of 135 EUA,

— Ireland may, until 31 December 1983, exclude from tax exemption goods whose unit value is in excess of 77 EUA.

2. During the period of implementation of the derogations referred to in paragraph 1, the other Member States shall take the necessary steps to permit the remission of tax, in accordance with the procedures referred to in Article 6 (4) of Directive 69/169/EEC, on goods imported into the Kingdom of Denmark and into Ireland which are excluded from exemption in those countries.

3. By way of derogation from Article 4 (1) (b) of Directive 69/169/EEC, as amended by Article 2 (a) of this Directive, with regard to the import of still wines with exemption from turnover tax and excise duty, the Kingdom of Denmark may maintain, until 31 December 1983, the quantitative limit of three litres.

Article 6

1. Member States shall bring into force the measures necessary to comply with this Directive no later than 1 January 1979.

2. Member States shall inform the Commission of the provisions which they adopt to implement this Directive. The Commission shall inform the other Member States thereof.

Article 7

This Directive is addressed to the Member States.

Done at Brussels, 19 December 1978.

For the Council

The President

H.-D. GENSCHER

28. 12. 78 Official Journal of the European Communities No L 366/31

FOURTH COUNCIL DIRECTIVE

of 19 December 1978

amending Directive 69/169/EEC on the harmonization of provisions laid down by law, regulation or administrative action relating to exemption from turnover tax and excise duty on imports in international travel

(78/1033/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 99 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas Article 1 (1) of Council Directive 69/169/EEC of 28 May 1969 on the harmonization of provisions laid down by law, regulation or administrative action relating to exemption from turnover tax and excise duty on imports in international travel (4), as last amended by Directive 78/1032/EEC (5), provides for exemption for goods contained in the personal luggage of travellers coming from a third country, if such imports have no commercial character;

Whereas the total value of the goods eligible for exemption must not exceed 25 units of account per person; whereas, under Article 1 (2) of Directive 69/169/EEC, Member States may reduce this exemption to 10 units of account for travellers under 15 years of age;

Whereas the introduction of the European unit of account in the legal acts adopted by the institutions of the European Communities in the field of tax exemptions must not have the effect of reducing the amounts expressed in national currency at present eligible for exemption;

Whereas account must also be taken of the measures for the benefit of travellers recommended by the specialized international organizations, and in particular those contained in Annex F (3) to the International Convention on the simplification and harmonization of customs procedures, sponsored by the Customs Cooperation Council;

Whereas this two-fold objective may be achieved by fixing the amount provided for in Article 1 (1) of Directive 69/169/EEC at 40 European units of account and that provided for in Article 1 (2) of that Directive at 20 European units of account;

Whereas the term 'personal luggage' should be defined,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 69/169/EEC is hereby amended as follows:

1. Article 1 is hereby amended as follows:

   (a) Paragraph 1 shall be replaced by the following:

   '1. Goods contained in the personal luggage of travellers coming from third countries shall be exempt from the turnover tax and excise duty levied on imports if the imported goods have no commercial character and the total value of the goods does not exceed 40 European units of account per person.'

   (b) In paragraph 2, '10 units of account' shall be replaced by '20 European units of account'.

   (c) In paragraph 3, '25 units of account' shall be replaced by '40 European units of account'.

2. The following paragraph shall be added to Article 3:

   '3. "Personal luggage" shall mean the whole of the luggage which a traveller is in a position to submit to the customs authorities upon his arrival, as well as luggage which he submits later to the same authorities, subject to proof that such luggage was registered as accompanied luggage, at the time of his departure, with the company which has been responsible for conveying him.

(1) OJ No C 213, 7. 9. 1978, p. 9.
(2) OJ No C 261, 6. 11. 1978, p. 46.
(3) Opinion delivered on 19 October 1978 (not yet published in the Official Journal).
(4) OJ No L 133, 4. 6. 1969, p. 6.
(5) See page 28 of this Official Journal.

The definition of "personal luggage" shall not cover portable containers containing fuel. However, for each means of motor transport a quantity of fuel not exceeding 10 litres shall be admitted duty-free in such a container, without prejudice to national provisions governing the possession and transport of fuel.'

Article 2

1. Member States shall bring into force the measures necessary to comply with this Directive no later than 1 January 1979.

2. Member States shall inform the Commission of the provisions which they adopt to implement this Directive. The Commission shall inform the Member States thereof.

Article 3

This Directive is addressed to the Member States.

Done at Brussels, 19 December 1978.

For the Council

The President

H.-D. GENSCHER

SECOND COUNCIL DIRECTIVE

of 19 December 1978

amending Directive 74/651/EEC on the tax reliefs to be allowed on the importation of goods in small consignments of a non-commercial character within the Community

(78/1034/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas Article 1 (2) (d) of Council Directive 74/651/EEC of 19 December 1974 on the tax reliefs to be allowed on the importation of goods in small consignments of a non-commercial character within the Community (4) allows tax relief for small consignments containing goods whose total value does not exceed 40 units of account;

Whereas the introduction of the European unit of account in the legal acts adopted by the institutions of the European Communities in the field of tax exemptions must not have the effect of reducing the equivalent value in national currencies of the amounts at present eligible for relief; whereas this objective can be attained by fixing at 60 European units of account the amount of the tax relief referred to in Article 1 (2) (d) of Directive 74/651/EEC,

HAS ADOPTED THIS DIRECTIVE:

Article 1

In Article 1 (2) (d) of Directive 74/651/EEC, '40 units of account' shall be replaced by '60 European units of account'.

Article 2

The following Article shall be inserted in Directive 74/651/EEC:

'*Article 1a*

1. For the purposes of this Directive, "European unit of account" (EUA) shall be as defined in the Financial Regulation of 21 December 1977 (1).

2. The EUA equivalent in national currency which shall apply for the implementation of this Directive shall be fixed once a year. The rates applicable shall be those obtaining on the first working day of October with effect from 1 January of the following year.

3. Member States may round off the amounts in national currency resulting from the conversion of the amount in EUA provided for in Article 1 (2) (d) provided such rounding-off does not exceed 2 EUA.

4. Member States may maintain the amount of the relief in force at the time of the annual adjustment provided for in paragraph 2 if, prior to the rounding off provided for in paragraph 3, conversion of the amount of the relief expressed in EUA would result in a change of less than 5 % in the relief expressed in national currency.

(1) OJ No L 356, 31. 12. 1977, p. 1.'

Article 3

1. Member States shall bring into force the measures necessary to comply with this Directive no later than 1 January 1979.

2. Member States shall inform the Commission of the provisions which they adopt to implement this Directive. The Commission shall inform the other Member States thereof.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 19 December 1978.

For the Council

The President

H.- D. GENSCHER

(1) OJ No C 213, 7. 9. 1978, p. 10.
(2) OJ No C 261, 6. 11. 1978, p. 46.
(3) Opinion delivered on 19 October 1978 (not yet published in the Official Journal).
(4) OJ No L 354, 30. 12. 1974, p. 57.

No L 366/34 Official Journal of the European Communities 28. 12. 78

COUNCIL DIRECTIVE

of 19 December 1978

on the exemption from taxes of imports of small consignments of goods of a non-commercial character from third countries

(78/1035/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 99 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas Council Directive 74/651/EEC of 19 December 1974 on the tax reliefs to be allowed on the importation of goods in small consignments of a non-commercial character within the Community (4), as amended by Directive 78/1034/EEC (5), laid down the limits and conditions under which such consignments may be exempted from value added tax and from any other taxes on consumption;

Whereas Community rules should likewise be laid down for the exemption from turnover taxes and excise duties of imports of small consignments of a similar nature from third countries;

Whereas to that end the limits within which such exemption is to be applied should, for practical reasons, be as far as possible the same as those laid down by the arrangements for exemption from customs duties in Council Regulation (EEC) No 3060/78 (6);

Whereas finally it appears necessary to set special limits for certain products because of the high level of taxation to which they are at present subject in the Member States,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. Goods in small consignments of a non-commercial character sent from a third country by private persons to other private persons in a Member State shall be exempt on importation from turnover tax and excise duty.

2. For the purposes of paragraph 1, 'small consignments of a non-commercial character' means consignments which:

— are of an occasional nature,

— contain only goods intended for the personal or family use of the consignees, the nature and quantity of which do not indicate that they are being imported for any commercial purpose,

— contain goods with a total value not exceeding 30 EUA.

— are sent by the sender to the consignee without payment of any kind.

Article 2

1. Article 1 shall apply to the goods listed below subject to the following quantitative limits:

(a) *tobacco products*

50 cigarettes,

or 25 cigarillos (cigars of a maximum weight of three grams each),

or 10 cigars,

or 50 grams of smoking tobacco;

(b) *alcoholic beverages*

— distilled beverages and spirits of an alcoholic strength exceeding 22°: one standard bottle (not exceeding one litre),

or

— distilled beverages and spirits and aperitifs with a wine or alcohol base, of an alcoholic strength not exceeding 22°; sparkling wines and liqueur wines: one standard bottle (not exceeding one litre),

or

— still wines: two litres;

(c) *perfumes:* 50 grams,

or

toilet waters: 0·25 litre or eight ounces;

(1) OJ No C 18, 25. 1. 1975, p. 6; OJ No C 213, 7. 9. 1978, p. 11.
(2) OJ No C 261, 6. 11. 1978, p. 46,
(3) Opinion delivered on 19 October 1978 (not yet published in the Official Journal).
(4) OJ No L 354, 30. 12. 1974, p. 57.
(5) See page 33 of this Official Journal.
(6) See page 1 of this Official Journal.

(d) *coffee:* 500 grams,
or
coffee extracts and essences: 200 grams;

(e) *tea:* 100 grams,
or
tea extracts and essences: 40 grams.

2. The Member States shall have the right to reduce the quantities of the products referred to in paragraph 1 eligible for exemption from turnover tax and excise duties, or to abolish exemption for such products altogether.

3. Under no circumstances shall tax exemption granted for small consignments from non-member countries exceed that applicable to small consignments sent within the Community.

Article 3

Goods listed in Article 2 contained in a small consignment of a non-commercial character in quantities exceeding those laid down in the said Article shall be excluded in their entirety from exemption.

Article 4

1. For the purpose of this Directive, 'European unit of account' (EUA) shall be as defined in the Financial Regulation of 21 December 1977 (1).

2. The EUA equivalent in national currency which shall apply for the implementation of this Directive shall be fixed once a year. The rates applicable shall be those obtaining on the first working day of October with effect from 1 January of the following year.

3. Member States may round off the amounts in national currency resulting from the conversion of the amounts in European units of account provided for in Article 1 (2), provided such rounding-off does not exceed 2 EUA.

4. Member States may maintain the amount of the exemption in force at the time of the annual adjustment provided for in paragraph 2 if, prior to the rounding-off provided for in paragraph 3, conversion of the amount of the exemption expressed in EUA would result in a change of less than 5 % in the exemption expressed in national currency.

Article 5

1. Member States shall bring into force the measures necessary to comply with this Directive no later than 1 January 1979.

2. Member States shall inform the Commission of the provisions which they adopt to implement this Directive. The Commission shall inform the other Member States thereof.

Article 6

This Directive is addressed to the Member States.

Done at Brussels, 19 December 1978.

For the Council

The President

H.-D. GENSCHER

(1) OJ No L 356, 31. 12. 1977, p. 1.

No L 10/8 Official Journal of the European Communities 16. 1. 79

II

(Acts whose publication is not obligatory)

COUNCIL

SECOND COUNCIL DIRECTIVE

of 18 December 1978

on taxes other than turnover taxes which affect the consumption of manufactured tobacco

(79/32/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof,

Having regard to Council Directive 72/464/EEC of 19 December 1972 on taxes other than turnover taxes which affect the consumption of manufactured tobacco (1), as amended by Directives 74/318/EEC (2), 75/786/EEC (3), 76/911/EEC (4), and 77/805/EEC (5),

Having regard to the proposal from the Commission (6),

Having regard to the opinion of the European Parliament (7),

Having regard to the opinion of the Economic and Social Committee (8),

Whereas there are several types of manufactured tobacco, distinguished by their characteristics and by the way in which they are used;

Whereas these different types of manufactured tobacco should be defined;

Whereas for economic reasons temporary derogations should be provided for certain Member States,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. For the purpose of applying Article 3 (2) of Directive 72/464/EEC:

(a) cigars and cigarillos,
(b) cigarettes,
(c) smoking tobacco,
(d) snuff,
(e) chewing tobacco,

as defined in Articles 2 to 6, shall be deemed to be manufactured tobacco.

2. Notwithstanding existing Community provisions, the definitions referred to in Articles 2 to 6 shall be without prejudice to the choice of system or the level of taxation which shall apply to the different groups of products referred to in these Articles.

Article 2

The following shall be deemed to be cigars or cigarillos if they can be smoked as they are:

1. rolls of tobacco made entirely of natural tobacco;

2. rolls of tobacco with an outer wrapper of natural tobacco;

3. rolls of tobacco with an outer wrapper of the normal colour of a cigar, and a binder, of reconstituted tobacco, falling within subheading 24.02 E of the Common Customs Tariff, where at least 60 % by weight of the tobacco particles are both wider

(1) OJ No L 303, 31. 12. 1972, p. 1.
(2) OJ No L 180, 3. 7. 1974, p. 30.
(3) OJ No L 330, 24. 12. 1975, p. 51.
(4) OJ No L 354, 24. 12. 1976, p. 33.
(5) OJ No L 338, 28. 12. 1977, p. 22.
(6) OJ No C 72, 27. 6. 1974, p. 15.
(7) OJ No C 155, 9. 12. 1974, p. 73.
(8) OJ No C 125, 16. 10. 1974, p. 38.

and longer than 1·75 mm and where the wrapper is fitted in spiral form with an acute angle of at least 30° to the longitudinal axis of the cigar;

4. rolls of tobacco with an outer wrapper, of the normal colour of a cigar, of reconstituted tobacco, falling within subheading 24.02 E of the Common Customs Tariff, where the unit weight, not including filter or mouth-piece, is not less than 2·3 g and if at least 60 % by weight of the tobacco particles are both wider and longer than 1·75 mm and the circumference over at least one third of the length is not less than 34 mm.

Article 3

1. Rolls of tobacco capable of being smoked as they are and which are not cigars or cigarillos as defined in Article 2 shall be deemed to be cigarettes.

2. A roll of tobacco referred to in paragraph 1 shall, for excise duty purposes, be considered as two cigarettes where, excluding filter or mouthpiece, it is longer than 9 cm but not longer than 18 cm, as three cigarettes where, excluding filter or mouthpiece, it is longer than 18 cm but not longer than 27 cm, and so on.

Article 4

The following shall be deemed to be smoking tobacco:

1. tobacco which has been cut or otherwise split, twisted or pressed into blocks and is capable of being smoked without further industrial processing;

2. tobacco refuse put up for retail sale which does not fall under Articles 2 and 3 and which can be smoked.

Article 5

Tobacco in the form of rolls, sticks, strips, cubes or blocks, which is put up for retail sale and specially prepared to be chewed but not smoked, shall be deemed to be chewing tobacco.

Article 6

Tobacco in powder or grain form which is specially prepared to be taken as snuff but not smoked, shall be deemed to be snuff.

Article 7

1. Products consisting in whole or in part of substances other than tobacco but otherwise conforming to the criteria in Article 2 shall be treated as cigars and cigarillos provided they have respectively:

— a wrapper of natural tobacco,

— a wrapper and binder of tobacco, both of reconstituted tobacco,

— a wrapper of reconstituted tobacco.

2. Products consisting in whole or in part of substances other than tobacco but otherwise conforming to the criteria of Article 3 or 4 shall be treated as cigarettes and smoking tobacco.

Notwithstanding the first subparagraph, products containing no tobacco and used exclusively for medical purposes shall not be treated as manufactured tobacco.

3. Products consisting in part of substances other than tobacco but otherwise conforming to the criteria of Articles 5 or 6 shall be treated as chewing tobacco or snuff as the case may be.

Article 8

1. Notwithstanding Article 2, the Federal Republic of Germany shall be authorized to treat in the same way as cigars, rolls of tobacco without a binder, the outer wrapping of which is fitted in spiral form at an angle of less than 30° to the longitudinal axis, but which otherwise meet the requirements referred to in Article 2 (3) and rolls of tobacco the circumference of which is not less than 34 mm over at least one third of their length but which otherwise meet the requirements referred to in Article 2 (4).

2. Notwithstanding Article 2 (3), Denmark shall be authorized to treat rolls of tobacco as cigars if at least 60 % by weight of the tobacco particles are both wider and longer than 1·19 mm but not wider and longer than 1·75 mm, but which otherwise meet the requirements of Article 2 (3).

3. Notwithstanding Article 3 (2), Denmark shall be authorized to treat a cigarette not longer than 10 cm, excluding filter or mouthpiece, as a single cigarette.

4. On expiry of the second stage of the harmonization of the structures of excise duty on manufactured tobacco defined by Directive 77/805/EEC, and at the latest by 31 December 1981, the Member States referred to in paragraphs 1, 2 and 3 shall abolish the derogations provided for in these paragraphs.

Article 9

1. The Member States shall bring into force the laws, regulations or administrative provisions necessary to comply with this Directive not later than 1 January 1980. They shall forthwith inform the Commission thereof.

2. Denmark shall not be obliged to apply the provisions of this Directive to Greenland.

3. Member States shall communicate to the Commission the texts of the main provisions of

national law which they adopt in the field governed by this Directive.

Article 10

This Directive is addressed to the Member States.

Done at Brussels, 18 December 1978.

For the Council

The President

H.-D. GENSCHER

No L 331/8 Official Journal of the European Communities 27. 12. 79

COUNCIL

COUNCIL DIRECTIVE

of 6 December 1979

amending Directive 77/799/EEC concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation

(79/1070/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

Having regard to the opinion of the Economic and Social Committee (2),

Whereas the practice of tax evasion and tax avoidance leads to budget losses and to violations of the principle of fair taxation and jeopardizes healthy competition; whereas this therefore affects adversely the smooth running of the common market;

Whereas, in order to combat this practice more effectively, cooperation between tax administrations within the Community should be strengthened in accordance with common principles and rules;

Whereas, on 19 December 1977, the Council adopted Directive 77/799/EEC concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation (3); whereas such mutual assistance should be extended to cover indirect taxes in order to ensure that these are correctly assessed and collected;

Whereas, as a matter of particular urgency, mutual assistance must be extended to cover value added tax, both because it is a general tax on consumption and because it plays an important part in the Community's own resources system;

Whereas the provisions of Directive 77/799/EEC are also suitable for value added tax, subject to certain amendments and additions; whereas it is therefore sufficient to extend the scope of the said Directive,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 77/799/EEC is hereby amended as follows:

1. The title shall be replaced by the following:

'Council Directive of 19 December 1977 concerning mutual assistance by the competent authorities of the Member States in the fields of direct taxation and value added tax.'

2. In Article 1:

(a) Paragraph 1 shall be amended as follows:

'1. In accordance with the provisions of this Directive the competent authorities of the Member States shall exchange any information that may enable them to effect a correct assessment of taxes on income and capital and also of value added tax.'

(1) OJ No C 182, 31. 7. 1978, p. 46.
(2) OJ No C 283, 27. 11. 1978, p. 28.
(3) OJ No L 336, 27. 12. 1977, p. 15.

(b) Paragraph 5, as regards the United Kingdom, shall be replaced by the following:

'in the United Kingdom:

— The Commissioners of Customs and Excise or an authorized representative for information required solely for the purposes of value added tax,

— The Commissioners of Inland Revenue or an authorized representative for all other information.'

Article 2

Member States shall bring into force the laws, regulations or administrative provisions necessary to comply with this Directive by 1 January 1981.

Article 3

This Directive is addressed to the Member States.

Done at Brussels, 6 December 1979.

For the Council

The President

L. PRETI

No L 331/10 Official Journal of the European Communities 27. 12. 79

COUNCIL DIRECTIVE

of 6 December 1979

amending Directive 76/308/EEC on mutual assistance for the recovery of claims resulting from operations forming part of the system of financing the European Agricultural Guidance and Guarantee Fund, and of agricultural levies and customs duties

(79/1071/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

Having regard to the opinion of the Economic and Social Committee (2),

Whereas it is not at present possible, in principle, to enforce in one Member State a claim for recovery in respect of value added tax substantiated by a document drawn up by the authorities of another Member State;

Whereas the fact that national provisions relating to recovery of value added tax are applicable only within national territories is in itself an obstacle to the establishment and functioning of the common market; whereas it is therefore necessary to adopt common rules on mutual assistance between Member States for the purpose of recovery; whereas those rules must also apply to the recovery of interest and costs incidental to claims;

Whereas the Council has, by Directive 76/308/EEC (3), adopted common rules for the recovery of claims resulting from operations forming part of the system of financing the European Agricultural Guidance and

Guarantee Fund, and of agricultural levies and customs duties;

Whereas it is possible to have recourse to the same rules for tax purposes; whereas it is sufficient, therefore, to extend the scope of Directive 76/308/EEC,

HAS ADOPTED THIS DIRECTIVE:

Article 1

The title of Council Directive 76/308/EEC shall be amended to read as follows:

'Council Directive of 15 March 1976 on mutual assistance for the recovery of claims resulting from operations forming part of the system of financing the European Agricultural Guidance and Guarantee Fund, and of agricultural levies and customs duties, and in respect of value added tax.'

Article 2

Article 2 of Directive 76/308/EEC shall be amended as follows:

(a) letter 'd' shall be repaced by 'e';

(b) the following point '(d)' shall be inserted after point '(c)':

'(d) value added tax.'

Article 3

Member States shall take the measures necessary to comply with this Directive by 1 January 1981.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 6 December 1979.

For the Council

The President

L. PRETI

(1) OJ No C 57, 7. 3. 1977, p. 62.
(2) OJ No C 56, 7. 3. 1977, p. 79.
(3) OJ No L 73, 19. 3. 1976, p. 18.

EIGHTH COUNCIL DIRECTIVE

of 6 December 1979

on the harmonization of the laws of the Member States relating to turnover taxes — Arrangements for the refund of value added tax to taxable persons not established in the territory of the country

(79/1072/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax (uniform basis of assessment) (1), and particular Article 17 (4) thereof,

Having regard to the proposal from the Commission (2),

Having regard to the opinion of the European Parliament (3),

Having regard to the opinion of the Economic and Social Committee (4),

Whereas, pursuant to Article 17 (4) of Directive 77/388/EEC, the Council is to adopt Community rules laying down the arrangements governing refunds of value added tax, referred to in paragraph 3 of the said Article, to taxable persons not established in the territory of the country;

Whereas rules are required to ensure that a taxable person established in the territory of one member country can claim for tax which has been invoiced to him in respect of supplies of goods or services in another Member State or which has been paid in respect of imports into that other Member State, thereby avoiding double taxation;

Whereas discrepancies between the arrangements currently in force in Member States, which give rise in some cases to deflection of trade and distortion of competition, should be eliminated;

Whereas the introduction of Community rules in this field will mark progress towards the effective liberalization of the movement of persons, goods and services, thereby helping to complete the process of economic integration;

Whereas such rules must not lead to the treatment of taxable persons differing according to the Member State in the territory of which they are established;

Whereas certain forms of tax evasion or avoidance should be prevented;

Whereas, under Article 17 (4) of Directive 77/388/EEC, Member States may refuse the refund or impose supplementary conditions in the case of taxable persons not established in the territory of the Community; whereas steps should, however, also be taken to ensure that such taxable persons are not eligible for refunds on more favourable terms than those provided for in respect of Community taxable persons;

Whereas, initially, only the Community arrangements contained in this Directive should be adopted; whereas these arrangements provide, in particular, that decisions in respect of applications for refund should be notified within six months of the date on which such applications were lodged; whereas refunds should be made within the same period; whereas, for a period of one year from the final date laid down for the implementation of these arrangements, the Italian Republic should be authorized to notify the decisions taken by its competent services with regard to applications lodged by taxable persons not established within its territory and to make the relevant refunds within nine months, in order to enable the Italian Republic to reorganize the system at present in operation, with a view to applying the Community system;

Whereas further arrangements will have to be adopted by the Council to supplement the Community system; whereas, until the latter arrangements enter into force, Member States will refund the tax on the services and the purchases of goods which are not covered by this

(1) OJ No L 145, 13. 6. 1977, p. 1.
(2) OJ No C 26, 1. 2. 1978, p. 5.
(3) OJ No C 39, 12. 2. 1979, p. 14.
(4) OJ No C 269, 13. 11. 1978, p. 51.

Directive, in accordance with the arrangements which they adopt pursuant to Article 17 (4) of Directive 77/388/EEC,

HAS ADOPTED THIS DIRECTIVE:

Article 1

For the purposes of this Directive, 'a taxable person not established in the territory of the country' shall mean a person as referred to in Article 4 (1) of Directive 77/388/EEC who, during the period referred to in the first and second sentences of the first subparagraph of Article 7 (1), has had in that country neither the seat of his economic activity, nor a fixed establishment from which business transactions are effected, nor, if no such seat or fixed establishment exists, his domicile or normal place of residence, and who, during the same period, has supplied no goods or services deemed to have been supplied in that country, with the exception of:

(a) transport services and services ancillary thereto, exempted pursuant to Article 14 (1) (i), Article 15 or Article 16 (1), B, C and D of Directive 77/388/EEC;

(b) services provided in cases where tax is payable solely by the person to whom they are supplied, pursuant to Article 21 (1) (b) of Directive 77/388/EEC.

Article 2

Each Member State shall refund to any taxable person who is not established in the territory of the country but who is established in another Member State, subject to the conditions laid down below, any value added tax charged in respect of services or movable property supplied to him by other taxable persons in the territory of the country or charged in respect of the importation of goods into the country, in so far as such goods and services are used for the purposes of the transactions referred to in Article 17 (3) (a) and (b) of Directive 77/388/EEC and of the provision of services referred to in Article 1(b).

Article 3

To qualify for refund, any taxable person as referred to in Article 2 who supplies no goods or services deemed to be supplied in the territory of the country shall:

(a) submit to the competent authority referred to in the first paragraph of Article 9 an application modelled on the specimen contained in Annex A, attaching originals of invoices or import documents. Member States shall make available to applicants an explanatory notice which shall in any event contain the minimum information set out in Annex C;

(b) produce evidence, in the form of a certificate issued by the official authority of the State in which he is established, that he is a taxable person for the purposes of value added tax in that State. However, where the competent authority referred to in the first paragraph of Article 9 already has such evidence in its possession, the taxable person shall not be bound to produce new evidence for a period of one year from the date of issue of the first certificate by the official authority of the State in which he is established. Member States shall not issue certificates to any taxable persons who benefit from tax exemption pursuant to Article 24 (2) of Directive 77/388/EEC;

(c) certify by means of a written declaration that he has supplied no goods or services deemed to have been supplied in the territory of the country during the period referred to in the first and second sentences of the first subparagraph of Article 7 (1);

(d) undertake to repay any sum collected in error.

Article 4

To be eligible for the refund, any taxable person as referred to in Article 2 who has supplied in the territory of the country no goods or services deemed to have been supplied in the country other than the services referred to in Article 1 (a) and (b) shall:

(a) satisfy the requirements laid down in Article 3 (a), (b) and (d);

b) certify by means of a written declaration that, during the period referred to in the first and second sentences of the first subparagraph of Article 7 (1), he has supplied no goods or services deemed to have been supplied in the territory of the country other than services referred to in Article 1 (a) and (b).

Article 5

For the purposes of this Directive, goods and services in respect of which tax may be refundable shall satisfy the conditions laid down in Article 17 of Directive 77/388/EEC as applicable in the Member State of refund.

This Directive shall not apply to supplies of goods which are, or may by, exempted under item 2 of Article 15 of Directive 77/388/EEC.

Article 6

Member States may not impose on the taxable persons referred to in Article 2 any obligation, in addition to those referred to in Articles 3 and 4, other than the obligation to provide, in specific cases, the information necessary to determine whether the application for refund is justified.

Article 7

1. The application for refund provided for in Articles 3 and 4 shall relate to invoiced purchases of goods or services or to imports made during a period of not less than three months or not more than one calendar year. Applications may, however, relate to a period of less than three months where the period represents the remainder of a calendar year. Such applications may also relate to invoices or import documents not covered by previous applications and concerning transactions completed during the calendar year in question. Applications shall be submitted to the competent authority referred to in the first paragraph of Article 9 within six months of the end of the calendar year in which the tax became chargeable.

If the application relates to a period of less than one calendar year but not less than three months, the amount for which application is made may not be less than the equivalent in national currency of 200 European units of account; if the application relates to a period of a calendar year or the remainder of a calendar year, the amount may not be less than the equivalent in national currency of 25 European units of account.

2. The European unit of account used shall be that defined in the Financial Regulation of 21 December 1977 (1), as determined on 1 January of the year of the period referred to in the first and second sentences of the first subparagraph of paragraph 1. Member States may round up or down, by up to 10 %, the figures resulting from this conversion into national currency.

3. The competent authority referred to in the first paragraph of Article 9 shall stamp each invoice and/or import document to prevent their use for further application and shall return them within one month.

4. Decisions concerning applications for refund shall be announced within six months of the date when the applications, accompanied by all the necessary documents required under this Directive for examination of the application, are submitted to the competent authority referred to in paragraph 3. Refunds shall be made before the end of the abovementioned period, at the applicant's request, in either the Member State of refund or the State in which he is established. In the latter case, the bank charges for the transfer shall be payable by the applicant.

The grounds for refusal of an application shall be stated. Appeals against such refusals may be made to the competent authorities in the Member State concerned, subject to the same conditions as to form and time limits as those governing claims for refunds made by taxable persons established in the same State.

5. Where a refund has been obtained in a fraudulent or in any other irregular manner, the competent authority referred to in paragraph 3 shall proceed directly to recover the amounts wrongly paid and any penalties imposed, in accordance with the procedure applicable in the Member State concerned, without prejudice to the provisions relating to mutual assistance in the recovery of value added tax.

In the case of fraudulent applications which cannot be made the subject of an administrative penalty, in accordance with national legislation, the Member State concerned may refuse for a maximum period of two years from the date on which the fraudulent application was submitted any further refund to the taxable person concerned. Where an administrative penalty has been imposed but has not been paid, the Member State concerned may suspend any further refund to the taxable person concerned until it has been paid.

Article 8

In the case of taxable persons not established in the territory of the Community, Member States may refuse refunds or impose special conditions.

Refunds may not be granted on terms more favourable than those applied in respect of taxable persons established in the territory of the Community.

Article 9

Member States shall make known, in an appropriate manner, the competent authority to which the application referred to in Article 3 (a) and in Article 4 (a) are to be submitted.

The certificates referred to in Article 3 (b) and in Article 4 (a), establishing that the person concerned is a taxable person, shall be modelled on the specimens contained in Annex B.

(1) OJ No L 356, 31. 12. 1977, p. 1.

Article 10

Member States shall bring into force the provisions necessary to comply with this Directive no later than 1 January 1981. This Directive shall apply only to applications for refunds concerning value added tax charged on invoiced purchases of goods or services or in imports made as from that date.

Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field covered by this Directive. The Commission shall inform the other Member States thereof.

Article 11

By away of derogation from Article 7 (4), the Italian Republic may, until 1 January 1982, extend the period referred to in this paragraph from six to nine months.

Article 12

Three years after the date referred to in Article 10, the Commission shall, after consulting the Member States, submit a report to the Council on the application of this Directive, and in particular Articles 3, 4 and 7 thereof.

Article 13

This Directive is addressed to the Member States.

Done at Brussels, 6 December 1979.

For the Council

The President

L. PRETI

ANNEX A

SPECIMEN

Is this your first application?
If not, please give tax reference number

Receipt stamp

Competent authority to which the application is addressed ▶

Application for refund of value added tax

by a taxable person not established in the country

(Read the explanatory notes before filling in)

1	Surname and forenames or name of firm of applicant Street and house number Postal code, place and country
2	Nature of applicant's business
3	Particulars of the tax office and VAT registration number in the country in which the applicant is established or has his domicile or normal place of residence
4	Period to which the application refers — from month year to month year
5	Total amount of refund requested (in figures) (see overleaf for itemized list)
6	The applicant requests the refund of the amount shown in 5 in the manner described in 7.
7	Method of settlement requested (*) Bank account ☐ Postal account ☐ ☐ Account number ☐ Code number of financial body ☐ Account in the name of ☐ Name and address of the financial body
8	Number of documents enclosed: ..... Invoices: ..... Import documents: .....
9	The applicant hereby declares: (a) that the goods or services specified overleaf were used for his activities as a taxable person during: .... (b) that in the country in which the refund is being requested, and during the period covered by this application, he engaged in: ☐ (*) no supply of goods or services, ☐ (*) only the provision of services in respect of which tax is payable solely by the person to whom they are supplied, ☐ (*) only in the provision of certain exempted transport services and services ancillary thereto; (c) that the particulars given in this application are true. The applicant undertakes to pay back any monies wrongfully obtained.

(*) Insert X in the appropriate box ▶

(*) Insert X in the appropriate box ▶

10 Statement itemizing VAT amounts relating to the period covered by this application

No	Nature of the goods or services	Name, VAT registration number, if known, and address of supplier of goods or services	Date and number of invoice or import document	Amount of tax refund applied for	For official use only
			Total		

For official use only

ANNEX B

SPECIMEN

CERTIFICATE OF STATUS OF TAXABLE PERSON

The undersigned .....

(Name and address of competent authority)

certifies that .....

(Surname and forenames or name of firm)

.....

(Nature of activity)

.....

(Address of the establishment)

is a taxable person for the purposes of value added tax, his registration number being (1) .....

.....

.....

(Date)

Official stamp

.....

(Signature, name and grade)

(1) If the applicant does not have a VAT registration number, the competent authority shall state the reason for this.

ANNEX C

Minimum information to be given in explanatory notes

A. The application shall be drawn up on a form printed in one of the official languages of the European Communities. This form shall, however, be completed in the language of the country of refund.

B. The application shall be completed in block capitals and be submitted, by 30 June of the year following that to which the application relates, to the competent authority of the State to which the application is made (see D below).

C. The VAT registration number in the country of refund shall be given, if it is known to the applicant.

D. The application shall be submitted to the relevant competent authorities, i.e. for:

— Belgium: .....

— Denmark: .....

— Germany: .....

— France: .....

— Ireland: .....

— Italy: .....

— Luxembourg: .....

— the Netherlands: .....

— the United Kingdom: .....

E. The application shall refer to purchases of goods or services invoiced or to imports made during a period of not less than three months or more than one calendar year. However, it may relate to a period of less than three months where this period represents the remainder of a calendar year. Such an application may also relate to invoices or import documents not covered by previous applications and concerning transactions made during the calendar year in question.

F. In 9 (a), the applicant shall describe the nature of the activities for which he has acquired the goods or received the services referred to in the application for refund of the tax (e.g. participation in the International ..... Fair, held in ..... from ..... to ....., stand No ....., or international carriage of goods as from ..... to ..... on .....).

G. The application shall be accompanied by a certificate issued by the official authority of the State in which the applicant is established and which provides evidence that he is a taxable person for the purposes of value added tax in that State. However, where the competent authority referred to in D above already has such evidence in its possession, the applicant shall not be bound to produce new evidence for a period of one year from the date of issue of the first certificate.

H. The application shall be accompanied by the originals of the invoices or import documents showing the amount of value added tax borne by the applicant.

I. The application may be used for more than one invoice or import document but the total amount of VAT claimed for 19.. may not be less than:

Bfrs/Lfrs ...
Fl ...
DM ...
Dkr ...
£ ...
FF ...
£ Irl ...
Lit ...

if the period to which it relates is less than one calendar year but not less than three months or less than:

Bfrs Lfrs ...
Fl ...
DM ...
Dkr ...
£ ...
FF ...
£ Irl ...
Lit ...

if the period to which it relates is one calendar year or less than three months,

J. Exempted transport services are those carried out in connection with the international carriage of goods, including — subject to certain conditions — transport associated with the transit, export or import of goods.

K. Any refund obtained improperly may render the offender liable to the fines or penalties laid down by the law of the State which has made the refund.

L. The authority in the country of refund reserves the right to make refunds by cheque or money order addressed to the applicant.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 22 November 1979

on requests for authorization submitted by the Kingdom of Belgium pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 on own resources accruing from VAT

(Only the French and Dutch texts are authentic)

(80/31/EEC, Euratom, ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Treaty estabishing the European Atomic Energy Community,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (1),

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (2), and in particular the first subparagraph of Article 9 (3) and Article 13 (2),

Having regard to the request for authorization submitted by the Kingdom of Belgium,

Whereas the Kingdom of Belgium, in order to determine the VAT resources assessment basis for a given financial year, applies the method defined in Section B of Regulation (EEC, Euratom, ECSC) No 2892/77;

Whereas, in the cases referred to in Article 9 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77, the Member States shall, under the terms of paragraph 1 of that Article, determine the basis of the own resources accruing from value added tax, hereinafter referred to as 'VAT resources', from returns to be furnished by taxable persons in accordance with Article 22 of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — common system of value added tax: uniform basis of assessment (3), hereinafter referred to as the 'Sixth Directive' and, when there is no return or the return does not contain the necessary information from appropriate data such as other tax returns, professional accounts and complete statistical series; whereas under the first indent of Article 9 (3) of that Regulation they may, under certain circumstances, be authorized not to take into account, in calculating the VAT resources basis, one or more of the categories of transactions listed in Annexes E, F and G to the Sixth Directive to which Article 9 (2) of that Regulation applies or, pursuant to the second indent of Article 9 (3), to calculate the VAT resources basis by using approximate data;

Whereas Belgium has submitted to the Commission such requests for authorization for cases where it considers that precise calculation of the VAT

(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No L 336, 27. 12. 1977, p. 8.
(3) OJ No L 145, 13. 6. 1977, p. 1.

resources basis would be likely to involve administrative burdens which would be unjustified in relation to the effect of the transactions in question on the total VAT resources basis of this Member State;

Whereas Belgium exempts only independent groups of a medical or paramedical nature (Article 44 (2) (1 *bis*) of the Belgian VAT Code), possesses no information on other groups which might not be exempted and in respect of which it might request application for its benefit of Article 9 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77; whereas it has waived its right to do so;

Whereas, under Article 44 (2) (8) of the Belgian VAT Code, Belgium continues to exempt services rendered to conference organizers by lecturers, services rendered to show and concert organizers, to publishers of records and other sound recording media and to makers of films and other image-recording media by actors, conductors, musicians and other artists in the context of theatrical, choreographical, cinematographical or musical production or circus, music-hall or artistic cabaret performances, and the services rendered to organizers of sporting competitions or events by persons taking part in such competitions or events, but whereas the number of actors or other artists providing such services who are self-employed or would provide such services to organizers with no right to a deduction is limited; whereas Belgium requests authorization to omit such services from its calculations;

Whereas Belgium has, under Article 103 of the Belgian VAT Code, given taxable persons qualifying for exemption under Article 44 (2) (11) of the said Code who had opted to be taxable before 1 January 1978 the possibility of remaining taxable; whereas this option mainly concerns groups of self-employed persons or employers; whereas this concerns only a limited number of taxable persons in any case; whereas Belgium requests authorization to leave such persons out of account;

Whereas the Commission accepts that, in relation to these requests from Belgium, such a calculation would be likely to involve administrative burdens which would be unjustified in relation to the effect of the transactions in question on the total VAT resources basis of this Member State;

Whereas authorization should therefore be granted to Belgium under the first indent of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77 not to take into account the categories of transactions listed in Annexes E, F and G to the Sixth Directive in calculating the VAT own resources basis;

Whereas under Article 20 (2) (2) of the Belgian VAT Code, Belgium taxes the services of travel agents as provided for in Article 26 of the Sixth Directive without making a distinction between journeys within the Community and journeys outside the Community; whereas this distinction cannot be made at present, but whereas statistical data will be used to estimate the VAT basis in respect of services relating to journeys made outside the Community;

Whereas Belgium exempts services supplied by members of the liberal professions (Article 44 of the Belgian VAT Code) such as 'avocats' (barristers); whereas, at present, it possesses tax statistics only for the 1974 financial year, which therefore have to be extrapolated; whereas such services come within the scope of Article 28 (3) (b) of the Sixth Directive; whereas an assessment, however approximate, will have to be made of this part of the VAT basis with effect from the first year;

Whereas Belgium exempts the services supplied by members of the liberal professions (Article 44 of the Belgian VAT Code) such as 'notaires' (notaries) and 'huissiers de justice' (process servers); whereas, at present, it possesses tax statistics only for the financial year 1974 which therefore have to be extrapolated; whereas such services come within the scope of Article 28 (3) (b) of the Sixth Directive; whereas an assessment — however approximate — will have to be made of this part of the VAT basis with effect from the first year;

Whereas, under Article 44 (1) (3) of the Belgian VAT Code, Belgium exempts services supplied by veterinary surgeons; whereas it psossesses at present in respect of these taxable persons tax statistics relating only to the 1974 financial year; whereas only a proportion of the services provided are rendered to customers without the right to deduction; whereas this proportion may increase; whereas a major part of their professional expenses attracts a deductible tax, although this proportion may vary; whereas an assessment, however approximate, should be made of this part of the VAT basis;

Whereas under Article 44 (2) (1) of the Belgian VAT Code, Belgium exempts services supplied by hospitals; whereas an approximate estimate should nevertheless be made of the activities which are not carried out under the social conditions referred to in Article 13 A (1) (b) of the Sixth Directive, and which may have an effect on the total VAT resources basis of this Member State;

Whereas, under Article 44 (3) (4) of the Belgian VAT Code, Belgium exempts supplies and imports of gold for normal investment purposes, unless the acquirer or importer is a central bank or a processor or consumer of gold; whereas there are no statistics

relating to these operations as such; whereas an assessment, however approximate, should nevertheless be made of part of the basis when it affects the total VAT resources basis of this Member State;

Whereas authorization should be granted to Belgium under the second indent of Article 9 (3), of Regulation (EEC, Euratom, ECSC) No 2892/77, in respect of such requests to use estimates in calculating the VAT own resources basis of this Member State;

Whereas in the early years of implementation of the Sixth Directive, annual authorizations should be granted;

Whereas the Advisory Committee on Own Resources has approved the report containing the opinions of its members on this Decision,

HAS ADOPTED THIS DECISION:

Article 1

For the purpose of calculating the VAT own resources basis for the 1979 financial year, the Kingdom of Belgium is hereby authorized, pursuant to the first indent of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, to leave out of account the following categories of transactions referred to in Annexes E, F and G to the Sixth Directive:

1. *Transactions referred to in Article 13 A (1) (f) of the Sixth Directive other than those of groups of a medical or paramedical nature:*

   Services supplied by independent groups of persons whose activities are exempt from or are not subject to value added tax, for the purpose of rendering their members the services directly necessary for the exercise of their activity, where these groups merely claim from their members exact reimbursement of their share of the joint expenses, provided that such exemption is not likely to produce distortion of competition (Annex E, ex point 3).

2. *Services supplied by authors, artists, performers, in so far as these are not services specified in Annex B to the Second Council Directive 67/228/EEC of 11 April 1967*[1]:

   Services rendered to conference organizers by lecturers, services rendered to show and concert organizers, to publishers of records and other sound-recording media and to makers of films and other image-recording media by actors, conductors, musicians and other artists in the context of theatrical, choreographical, cinematographical or musical productions or circus, music-hall or artistic cabaret performances, and the services rendered to organizers of sporting competitions or events by persons taking part in these competitions or events (Annex F, ex point 2).

3. *For taxable persons who have the right of option under Article 28 (3) (c) of the Sixth Directive for taxation covered by point 2 of Annex G to that Directive:*

   Supply of services and goods closely linked thereto for the benefit of their members in return for a subscription fixed in accordance with their rules by non-profit-making organizations with aims of a political, trade-union, religious, patriotic, philosophical, philanthropic or civic nature, provided that this exemption is not likely to cause distortion of competition (Annex G, ex point 2).

Article 2

For the purposes of calculating the VAT own resources basis for the 1979 financial year, the Kingdom of Belgium is hereby authorized, pursuant to the second indent of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, to use approximate estimates in calculating the basis relating to the following categories of transaction listed in Annexes E and F to the Sixth Directive:

1. *The services of travel agents referred to in Article 26 of the Sixth Directive, and those of travel agents acting in the name and on account of a traveller, for journeys outside the Community* (Annex E, point 15).

2. *Services supplied by 'avocats' (barristers), in so far as these are not services specified in Annex B to the Second Council Directive of 11 April 1967* (Annex F, ex point 2).

3. *Services supplied by 'notaires' (notaries) and 'huissiers de justice' (process servers) (for all activities), in so far as these are not services specified in Annex B to the Second Council Directive of 11 April 1967* (Annex F, ex point 2).

4. *Treatment of animals by veterinary surgeons* (Annex F, point 9).

5. *Transactions of hospitals not covered by Article 13 A (1) (b) of the Sixth Directive* (Annex F, point 10).

[1] OJ No L 71, 14. 4. 1967, p. 1303/67.

6. *Transactions concerning gold other than gold for industrial use* (Annex F, point 26).

Article 3

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 22 November 1979.

For the Commission

Christopher TUGENDHAT

Member of the Commission

3. 4. 80 Official Journal of the European Communities No L 90/41

ELEVENTH COUNCIL DIRECTIVE

of 26 March 1980

on the harmonization of the laws of the Member States relating to turnover taxes — exclusion of the French overseas departments from the scope of Directive 77/388/EEC

(80/368/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof,

Having regard to the proposal from the Commission,

Whereas the third subparagraph of Article 227 (2) of the Treaty requires that the institutions of the Community should, within the framework of the procedures provided for in the Treaty, take care that the economic and social development of the French overseas departments is possible;

Whereas, in accordance with the judgment handed down by the Court of Justice on 10 October 1978 in Case 148/77, the Treaty and secondary legislation apply in the French overseas departments unless a decision is taken by the Community institutions adopting measures particularly suited to the economic and social conditions of those departments;

Whereas, for reasons connected with their geographic, economic and social situation, the French overseas departments should be excluded from the scope of the common system of value added tax as established by Council Directive 77/388/EEC (1);

Whereas implementation of this Directive does not involve any amendment of the laws of the Member States,

HAS ADOPTED THIS DIRECTIVE:

Article 1

The following indent shall be added to Article 3 (2) of Directive 77/388/EEC:

'— French Republic:

— the overseas departements.'

Article 2

This Directive shall apply with effect from 1 January 1979.

Article 3

This Directive is addressed to the Member States.

Done at Brussels, 26 March 1980.

For the Council

The President

G. MARCORA

(1) OJ No L 145, 13. 6. 1977, p. 1.

No L 90/42 Official Journal of the European Communities 3. 4. 80

COUNCIL DIRECTIVE

of 26 March 1980

authorizing the French Republic not to apply in the French overseas departments Directives 72/464/EEC and 79/32/EEC on taxes other than turnover taxes which affect the consumption of manufactured tobacco

(80/369/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof,

Having regard to the proposal from the Commission,

Whereas the third subparagraph of Article 227 (2) of the Treaty requires that the institutions of the Community should, within the framework of the procedure provided for in the Treaty, take care that the economic and social development of the French overseas departments is possible;

Whereas, in accordance with the judgment handed down by the Court of Justice on 10 October 1978 in Case 148/77, the Treaty and secondary legislation apply in the French overseas departments unless a decision is taken by the Community institutions adopting measures particularly suited to the economic and social conditions of those departments;

Whereas, for reasons connected with their geographic economic and social situation, the French Republic should be granted the possibility not to apply in the French overseas departments Community provisions on taxes other than turnover taxes which affect the consumption of manufactured tobacco, as fixed by Council Directives 72/464/EEC (1) and 79/32/EEC (2);

Whereas implementation of this Directive does not involve any amendment of the laws of the Member States,

HAS ADOPTED THIS DIRECTIVE:

Article 1

The following sentence shall be added to Article 12 (1) of Directive 72/464/EEC and to Article 9 (2) of Directive 79/32/EEC:

'The French Republic shall not be obliged to apply the provisions of this Directive in the French overseas departments.'

Article 2

This Directive is addressed to the Member States.

Done at Brussels, 26 March 1980.

For the Council

The President

G. MARCORA

(1) OJ No L 303, 31. 12. 1972, p. 1.
(2) OJ No L 10, 16. 1. 1979, p. 8.

No L 94/42 Official Journal of the European Communities 11. 4. 80

COMMISSION DECISION

of 17 March 1980

concerning requests for authorization submitted by the Kingdom of Denmark pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 relating to own resources accruing from VAT

(Only the Danish text is authentic)

(80/384/EEC, Euratom, ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (1),

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (2), and in particular Article 5 (3) (b), the first subparagraph of Article 9 (3) and Article 13 (2) thereof,

Having regard to the requests for authorization submitted by the Kingdom of Denmark,

Whereas Denmark applies the method laid down in Section A of Title III of Regulation (EEC, Euratom, ECSC) No 2892/77 to determine the basis for collecting VAT resources for a given financial year;

Whereas in the cases referred to in Article 9 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 the Member States — in accordance with paragraph 1 of this Article — determine the VAT resources basis from the returns made by taxable persons in accordance with Article 22 of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (3), hereinafter called the 'Sixth Directive'; whereas, in the absence of returns or where returns do not contain the necessary information, the assessment is based on appropriate data such as other tax returns, professional accounts and complete statistical series;

Whereas under the first indent of Article 9 (3) of the same Regulation the Member States may, in certain circumstances, be authorized not to take into account in calculating the VAT resources basis one or more categories of transactions listed in Annexes E, F and G to the Sixth Directive to which the provisions of Article 9 (2) apply;

Whereas Denmark has submitted such requests for authorization to the Commission in cases where it considers that a precise calculation of the VAT resources basis would cause an unjustified administrative burden in relation to the effect of the relevant transactions on its total VAT resources basis;

Whereas Denmark exempts services supplied by authors, artists and composers, but whereas the greater part of these services are provided by undertakings with a turnover of less than 10 000 EUA, and whereas these services are supplied in part to taxable persons;

Whereas, in Denmark, the services supplied by undertakers and cremation services are exempted while the supplies of goods incidental to these services are taxed;

Whereas in the matter of credit management only occasional transactions are performed by persons or bodies other than those which granted the credit; whereas these services are often supplied to taxable persons;

Whereas Denmark has granted the option of the status of taxable persons to a limited number of professional associations for a period limited to three years on condition they provide information services for their members;

Whereas the Commission accepts that, in the case of these requests by Denmark, such a calculation would indeed cause an unjustified burden in relation to the effect of the transactions in question on the State's total VAT resources basis;

(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No L 336, 27. 12. 1977, p. 8.
(3) OJ No L 145, 13. 6. 1977, p. 1.

Whereas Denmark should therefore be authorized, pursuant to the first indent of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, not to take into account in determining the VAT resources basis the corresponding categories of transactions listed in Annexes F and G to the Sixth Directive;

Whereas the statements made in the returns submitted by newspaper publishers do not make it possible to determine with any accuracy the VAT resources basis relating to the sales of newspapers; whereas Denmark should be authorized under Article 5 (3) (b) of the said Regulation to apply a corrective factor to these statements so as to arrive at a determination of the VAT resources basis containing no more than a negligible margin of error;

Whereas during the early years of the implementation of the Sixth Directive annual authorizations should be granted;

Whereas the Advisory Committee on Own Resources has approved the report containing the opinions of its members on this Decision,

HAS ADOPTED THIS DECISION:

Article 1

For the purpose of calculating the VAT resources basis for the financial year 1979, the Kingdom of Denmark is hereby authorized, pursuant to the first indent of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, not to take into account the following categories of transaction referred to in Annexes F and G of the Sixth Directive:

1. *Services supplied by authors, artists, performers, lawyers and other members of the liberal professions, other than the medical and para-medical professions, in so far as these are not the services specified in Annex B to the Second Council Directive of 11 April 1967:*

   Services supplied by authors, artists and performers

   (Annex F, ex point 2).

2. *Services supplied by undertakers and cremation services other than the supplies of goods related thereto:*

   (Annex F, ex point 6).

3. *Management of credit and credit guarantees by a person or body other than the one which granted the credit:*

   (Annex F, point 13).

4. *For taxable persons having an option under Article 28 (3) (c) of the Sixth Directive in respect of taxation covered by the provisions of paragraph 2 of Annex G to that Directive:*

   Supplies of services by professional associations which have opted for the status of taxable persons to their members solely for their information activities

   (Annex G, ex point 2).

Article 2

For the purpose of calculating the VAT resources basis for the financial year 1979, the Kingdom of Denmark is hereby authorized, pursuant to Article 5 (3) (b) of Regulation (EEC, Euratom, ECSC) No 2892/77, to apply to the information extracted from the returns made by newspaper publishers a corrective factor calculated on the basis of the appropriate data obtained from the statistics of the publishing industry.

Article 3

This Decision is addressed to the Kingdom of Denmark.

Done at Brussels, 17 March 1980.

For the Commission

Christopher TUGENDHAT

Member of the Commission

COMMISSION DECISION

of 2 May 1980

concerning requests for authorization submitted by Italy pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 in respect of own resources accruing from VAT

(Only the Italian text is authentic)

(80/513/EEC, Euratom, ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (1),

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (2), and in particular the first subparagraph of Article 9 (3) and Article 13 (2) thereof,

Having regard to requests for authorization submitted by Italy,

Whereas Italy is applying the method laid down in Section B of Regulation (EEC, Euratom, ECSC) No 2892/77 for calculating the VAT own resources base for a given year;

Whereas, with regard to the transactions referred to in Article 9 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77, the Member States determine the VAT own resources basis, in accordance with paragraph 1 of that Article, from returns to be furnished by taxable persons in accordance with Article 22 of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — common system of value added tax: uniform basis of assessment (3) (hereinafter called the 'Sixth Directive') and, when there is no return, or the return does not contain the necessary information, from appropriate data such as: other tax returns, professional accounts, complete statistical series;

Whereas, under the first indent of Article 9 (3), they may be authorized not to take into account, in calculating the VAT own resources base, one or more of the categories of transactions listed in Annexes E, F and G to the Sixth Directive to which Article 9 (2) applies or, under the second indent of paragraph 3, to calculate the corresponding VAT own resources base by using approximate estimates;

Whereas Italy has referred to the Commission applications under these heads for authorization in cases where it considers that precise calculations of the VAT own resources base would be likely to involve administrative burdens which would be unjustified in relation to the effect of the transactions in question on the total VAT own resources base of the Member States;

Whereas Italy, pursuant to Article 13 (B) (g) of the Sixth Directive, subjects to taxation the transfer of buildings or parts thereof and the land on which they stand, other than those referred to in Article 4 (3) (a) of the same Directive; whereas this taxation must be limited to transactions carried out by taxable persons entitled to deduction of input taxes; whereas the Italian authorities do not have adequate data at their disposal;

Whereas Italy exempts from taxation the services supplied by undertakers and cremation services;

Whereas the Commission acknowledges that in so far as these requests by Italy are concerned, such calculations would be likely to involve burdens which would be unjustified in relation to the effect of the transactions in question on the total VAT own resources base of the Member States;

Whereas Italy should be authorized, under the second indent of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, to use approximate estimates in respect of those requests for calculating its VAT own resources base;

(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No L 336, 27. 12. 1977, p. 8.
(3) OJ No L 145, 13. 6. 1977, p. 1.

Whereas in the early years of the implementation of the Sixth Directive authorization should be granted annually;

Whereas the Advisory Committee on Own Resources has approved the report in which are recorded the opinions of its members on this Decision,

HAS ADOPTED THIS DECISION:

Article 1

When calculating the VAT own resources base for 1979, Italy is hereby authorized, pursuant to the second indent of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, to use approximate estimates in calculating the base relating to the following categories of transaction referred to in Annexes E and F to the Sixth Directive:

1. *The transactions referred to in Article 13 B (g) of the Sixth Directive*

   Transfer of buildings or parts thereof and the land on which they stand, other than those referred to in Article 4 (3) (a), when they are carried out by taxable persons entitled to a deduction of input taxes for the buildings in question,

   (Annex E, point 11).

2. *Services provided by undertakers and cremation services and supplies of goods related to such services*

   (Annex F, point 6).

Article 2

This Decision is addressed to the Italian Republic.

Done at Brussels, 2 May 1980.

For the Commission

Christopher TUGENDHAT

Member of the Commission

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 18 July 1980

concerning requests for authorization submitted by the United Kingdom pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax

(Only the English text is authentic)

(80/774/EEC, Euratom, ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources [1],

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing, in respect of own resources accruing from value added tax, the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources [2], and in particular the first subparagraph of Article 9 (3) and Article 13 (2),

Having regard to the requests for authorization submitted by the United Kingdom,

Whereas the United Kingdom applies the method laid down in Title III, Section B of Regulation (EEC, Euratom, ECSC) No 2892/77 for calculating the basis for value added tax own resources, hereinafter referred to as 'VAT resources', for a given year;

Whereas, with regard to the transactions referred to in Article 9 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77, the Member States determine the VAT resources basis, in accordance with paragraph 1 of that Article, from returns to be furnished by taxable persons in accordance with Article 22 of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment [3] (hereinafter called the 'Sixth Directive') and, when there is no return, or the return does not contain the necessary information, from appropriate data such as other tax returns, professional accounts and complete statistical series; whereas, under the first indent of the first subparagraph of Article 9 (3) of that Regulation, they may be authorized in certain circumstances not to take into account, in calculating the VAT resources basis, one or more of the categories of transactions listed in Annexes E, F and G to the Sixth Directive to which Article 9 (2) of that Regulation applies or, under the second indent of the first subparagraph of Article 9 (3) of that Regulation, to calculate the corresponding VAT resources basis by using approximate estimates;

(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No L 336, 27. 12. 1977, p. 8.

(3) OJ No L 145, 13. 6. 1977, p. 1.

Whereas the United Kingdom has submitted to the Commission such requests for authorization for cases where it considers that precise calculations of the VAT own resources basis would be likely to involve administrative burdens which would be unjustified in relation to the effect of the transactions in question on the total VAT resources basis of that Member State;

Whereas in the United Kingdom the supply of transport services for sick or injured persons in vehicles specially designed for the purpose by duly authorized bodies is normally considered to be 'medical or surgical care or treatment, etc.', which is exempted under Group 7 of Schedule 5 of the Finance Act 1972; whereas, however, the supply of commercial ambulance services is taxable; whereas investigations carried out by government and other public authorities with special knowledge in this field have disclosed no reliable statistiscs concerning this type of service; whereas, however, the maximum total value of those services which are taxable is insignificant;

Whereas the United Kingdom has no statistics on the supply of goods for the fuelling and provisioning of pleasure craft and aircraft for private use proceeding outside the national territory; whereas the United Kingdom authorities have carried out a special exercise which has made it possible to evaluate the amount in respect of these transactions and to establish that it is insignificant;

Whereas the Commission acknowledges that in so far as these requests by the United Kingdom are concerned, accurate calculation of the VAT resources would be likely to involve burdens which would be unjustified in relation to the effect of the transactions in question on the total VAT resources basis of that Member State;

Whereas the United Kingdom should be authorized, therefore, under the first indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77 not to take into account, when calculating the VAT resources basis, the categories of transactions listed in Annexes E and F to the Sixth Directive, which would require the abovementioned calculation to be made;

Whereas, with regard to transactions concerning gold other than gold for industrial use, it appears that the only transactions exempted in the United Kingdom are those relating to gold coins which are legal tender; whereas, at present, sales of such coins are not of a total value large enough to be recorded in statistics (quoted to the nearest £1 million per quarter); whereas, however, this situation may change in the future as a result of the introduction of new legislation in 1979; whereas the United Kingdom must inform the Commission of any change which may effect the volume of these transactions; whereas this part of the basis should be evaluated, even approximately, where it has some effect on the total VAT resources basis of that Member State;

Whereas the United Kingdom should be authorized, under the second indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, to use approximate estimates in respect of this request for calculating its VAT resources basis;

Whereas in the early years of implementation of the Sixth Directive authorization should be granted annually;

Whereas the Advisory Committee on Own Resources has approved the report in which are recorded the opinions of its members on this Decision,

HAS ADOPTED THIS DECISION:

Article 1

When calculating the VAT resources basis for 1979, the United Kingdom is hereby authorized, pursuant to the first indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, not to take into account the following categories of transactions listed in Annexes E and F to the Sixth Directive:

1. Transactions referred to in Article 13 A (1) (p) of the Sixth Directive:

   the supply of transport services of a commercial nature by duly authorized bodies for sick or injured persons in vehicles specially designed for the purpose (Annex E, under point 6);

2. Goods for the fuelling and provisioning of pleasure boats and aircraft for private use proceeding outside the national territory (Annex F, points 21 and 22).

Article 2

When calculating the VAT resources basis for 1979, the United Kingdom is hereby authorized, pursuant to the second indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, to use approximate estimates to calculate the basis for the following category of transactions referred to in Annex F to the Sixth Directive:

Transactions concerning gold other than gold for industrial use :

sales of gold coins which are legal tender (Annex F, under point 26).

Article 3

This Decision is addressed to the United Kingdom.

Done at Brussels, 18 July 1980.

For the Commission

Christopher TUGENDHAT

Member of the Commission

No L 239/20 Official Journal of the European Communities 12. 9. 80

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 22 July 1980

concerning requests for authorization submitted by the French Republic pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax

(Only the French text is authentic)

(80/821/EEC, Euratom, ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources [1],

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources [2], and in particular the first subparagraph of Article 9 (3) and Article 13 (2),

Having regard to the requests for authorization referred by the French Republic,

Whereas the French Republic applies the method laid down in Title III, Section B of Regulation (EEC, Euratom, ECSC) No 2892/77 for calculating the basis for value added tax own resources, hereinafter referred to as 'VAT resources', for a given year;

Whereas, with regard to the transactions referred to in Article 9 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77, the Member States determine the VAT resources basis in accordance with paragraph 1 of that Article, from returns to be furnished by taxable persons in accordance with Article 22 of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment [3] (hereinafter called the 'Sixth Directive') and, when there is no return, or the return does not contain the necessary information, from appropriate data such as other tax returns, professional accounts, and complete statistical series; whereas, under the first indent of the first subparagraph of Article 9 (3) of that Regulation they may be authorized in certain circumstances not to take into account, in calculating the VAT resources basis, one or more of the categories of transactions listed in Annexes E, F and G to the Sixth Directive to which Article 9 (2) of that Regulation applies or, under the second indent of the first subparagraph of Article 9 (3) of that Regulation to calculate the corresponding VAT resources basis by using approximate estimates;

Whereas France has submitted to the Commission such requests for authorization concerning cases

[1] OJ No L 94, 28. 4. 1970, p. 19.
[2] OJ No L 336, 27. 12. 1977, p. 8.
[3] OJ No L 145, 13. 6. 1977, p. 1.

where it considers that precise calculation of the VAT resources basis would be likely to involve administrative burdens which would be unjustified in relation to the effect of the transactions in question on the total VAT resources basis of that Member State;

Whereas France exempts the supply of services by means of agricultural machinery for individual or associated agricultural undertakings, but most of the undertakings in this sector have opted for taxation and the services of this kind supplied by undertakings which have not opted for taxation are therefore of marginal value;

Whereas transactions carried out by workshops for the blind are exempted in France but, since French social legislation seeks to promote the employment of the blind in undertakings, there are few such workshops;

Whereas transactions relating to the construction, setting out and maintenance of cemeteries, graves and monuments commemorating war dead are exempted in France, but the maintenance expenditure borne by the local authorities or at national level by specialist bodies is in any case minimal;

Whereas in France the right to opt for taxation has been granted to radiologists for medical services exempted under Article 13 A (1) (c) of the Sixth Directive, but there are few such pratitioners;

Whereas the Commission acknowledges that in so far as these requests by France are concerned, accurate calculation of the VAT resources would be likely to involve burdens which would be unjustified in relation to the effect of the transactions in question on the total VAT resources basis of that Member State;

Whereas France should therefore be authorized under the first indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77 not to take into account, when establishing the VAT resources basis, the categories of transactions listed in Annexes F and G to the Sixth Directive, which would require the above calculation to be made;

Whereas in France admission to sporting events is exempted, but it is nevertheless possible to reconstitute the value added of this sector using tax data relating to entertainment tax;

Whereas the supply of water by public authorities is exempted, but it is nevertheless possible to reconstitute the corresponding basis from French turnover tax statistics and the value of production given in the national accounts;

Whereas it is possible to reconstitute the corresponding basis for supplies of recuperable material and fresh industrial waste which are exempted in France;

Whereas France exempts transactions relating to gold bars, gold ingots and gold coins where such supplies are negotiated on the free gold market by persons trading in securities or money or any other persons in the exercise of their principal activity and/or where these supplies are made by a broker; whereas part of the basis which has a not insignificant impact on the total VAT resources basis of that Member State should be estimated at least approximately;

Whereas neither tax nor statistical date are available in France on the services of travel agents referred to in Article 26 of the Sixth Directive and those of travel agents acting on behalf and for the account of travellers for journeys within the Community; whereas such services are exempted, although the corresponding basis can be reconstituted from balance of payments data;

Whereas France should be authorized, under the second indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, to use approximate estimates in respect of these requests for calculating its VAT resources basis;

Whereas in the early years of implementation of the Sixth Directive authorization should be granted annually;

Whereas the Advisory Committee on Own Resources has approved the report in which are recorded the opinions of its members on this Decision,

HAS ADOPTED THIS DECISION:

Article 1

When calculating the VAT resources basis for 1979, the French Republic is hereby authorized, pursuant to the first indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, not to take into account the following categories of transactions listed in Annexes F and G to the Sixth Directive:

1. Supply of services by means of agricultural machinery for individual or associated agricultural undertakings (Annex F, point 3);

2. Transactions carried out by blind persons or workshops for the blind provided these exemptions do not give rise to significant distortion of competition (Annex F, point 7);

3. The supply of goods and services to official bodies responsible for the construction, setting out and maintenance of cemeteries, graves and monuments commemorating war dead (Annex F, point 8);

4. In the case of taxable persons who make use under Article 28 (3) (c) of the Sixth Directive, of the right of option for the taxation covered by paragraph 2 of Annex G to that Directive:

   Medical care provided in the exercise of the medical and paramedical professions as defined by the Member State concerned: medical care provided by certain radiologists (Annex G, under point 2).

Article 2

When calculating the VAT resources basis for 1979, the French Republic is hereby authorized pursuant to the second indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, to use approximate estimates to calculate the basis for the following categories of transactions referred to in Annex F to the Sixth Directive:

1. Admission to sporting events (Annex F, point 1);

2. The supply of water by public authorities (Annex F, point 12);

3. Supplies of recuperable material and fresh industrial waste (Annex F, point 20);

4. Transactions concerning gold other than gold for industrial use (Annex F, point 26);

5. The services of travel agents referred to in Article 26 of the Sixth Directive, and those of travel agents acting in the name and on account of the traveller, for journeys within the Community (Annex F, point 27).

Article 3

This Decision is addressed to the French Republic.

Done at Brussels, 22 July 1980.

For the Commission

Christopher TUGENDHAT

Member of the Commission

12. 9. 80 Official Journal of the European Communities No L 239/23

COMMISSION DECISION

of 22 July 1980

concerning requests for authorization submitted by the Netherlands pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax

(Only the Dutch text is authentic)

(80/822/EEC, Euratom, ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (1),

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (2), and in particular the first subparagraph of Article 9 (3) and Article 13 (2),

Having regard to the requests for authorization submitted by the Kingdom of the Netherlands,

Whereas the Netherlands applies the method laid down in Title III, Section B of Regulation (EEC, Euratom, ECSC) No 2892/77 for calculating the basis for value added tax own resources, hereinafter referred to as 'VAT resources', for a given year;

Whereas, with regard to the transactions referred to in Article 9 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77, the Member States determine the VAT resources basis, in accordance with paragraph 1 of that Article, from returns to be furnished by taxable persons in accordance with Article 22 of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (3) (hereinafter called the 'Sixth Directive' and, when there is no return, or the return does not contain the necessary information, from appropriate data such as other tax returns, professional accounts and complete statistical series; whereas, under the first indent of the first subparagraph of Article 9 (3) of that Regulation, they may be authorized in certain circumstances not to take into account, in calculating the VAT resources basis, one or more of the categories of transaction listed in Annexes E, F and G to the Sixth Directive to which Article 9 (2) of that Regulation applies or, under the second indent of the first subparagraph of Article 9 (3) of that Regulation, to calculate the corresponding VAT resources basis by using approximate estimates;

Whereas the Netherlands has submitted to the Commission such requests for authorization for cases where it considers that precise calculations of the VAT own resources basis would be likely to involve administrative burdens which would be unjustified in relation to the effect of the transactions in question on the total VAT resources base of that Member State;

Whereas the Netherlands is applying for a transitional period the immovable property system in existence before the Sixth Directive came into force; whereas this system concerns only a small number of cases, but whereas in these cases transfers of immovable property give rise to collection of the tax more often than if the new system based on the Sixth Directive were applied;

Whereas, as regards the services provided by writers, composers, journalists and press photographers, which are exempt in the Netherlands, a limited number of taxable persons are involved; whereas for a large number of them income from professional activities exempted from taxation is less than 10 000 EUA, as the activities in question are only of a secondary nature and may be, in part, on behalf of undertakings which are themselves exempt;

Whereas transactions carried out by workshops for the blind are exempt in the Netherlands, provided this exemption does not cause major distortions of competition; whereas only a very small number of undertakings are involved and part of their services are supplied to undertakings entitled to make deductions;

(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No L 336, 27. 12. 1977, p. 8.
(3) OJ No L 145, 13. 6. 1977, p. 1.

Whereas the services of experts in connection with insurance claim assessments are exempt in the Netherlands, but the number of experts involved is small;

Whereas in respect of services provided for their members by employers' associations which have opted to be regarded as taxable persons, taking action on the declarations made by such taxable persons would involve an amount of work out of all proportion to the result anticipated;

Whereas the Commission acknowledges that in respect of these requests by the Netherlands, accurate calculation of the VAT resources basis would mean an unjustified administrative burden in relation to the effect of the transactions in question on the total VAT resources basis of that Member State;

Whereas the Netherlands should be authorized, therefore, under the first indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77 not to take into account, when calculating the VAT own resources basis, the categories of transactions listed in Annexes E, F and G to the Sixth Directive, which would require the abovementioned calculation to be made;

Whereas the Netherlands undertakings, granted tax relief are not registered separately; whereas it is possible to calculate the tax revenue adjustment to compensate for the graduated relief reasonably accurately;

Whereas neither tax data nor statistical data are available in the Netherlands for the services supplied by undertakers and cremation services or for the goods related thereto; such services are exempt;

Whereas niether tax data nor statistical data are available in the Netherlands in respect of the treatment of animals by veterinary surgeons, and the services provided by veterinary surgeons are exempt;

Whereas for the transport by ferry-boat of passengers and goods accompanying passengers, which is exempt in the Netherlands, neither accurate tax data nor statistics are available;

Whereas neither tax nor statistical data are available in the Netherlands on the services of travel agents referred to in Article 26 of the Sixth Directive and those of travel agents acting on behalf and for the account of travellers, for journeys within the Community; whereas such services are exempt;

Whereas the Netherlands should be authorized, under the second indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, to use approximate estimates in respect of these requests for calculating its VAT resources basis;

Whereas in the early years of implementation of the Sixth Directive authorization should be granted annually;

Whereas the Advisory Committee on Own Resources has approved the report in which are recorded the opinions of its members on this Decision,

HAS ADOPTED THIS DECISION:

Article 1

When calculating the VAT resources basis for 1979, the Kingdom of the Netherlands is hereby authorized, pursuant to the first indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, not to take into account the following categories of transactions listed in Annexes E, F and G to the Sixth Directive:

1. The transactions referred to in Article 13 B (g) of the Sixth Directive:

   Acquisition of buildings or parts thereof and the ground on which they stand other than those referred to in Article 4 (3) (a), where these transactions are carried out by taxable persons entitled to deduction of input taxes for the buildings in question (Annex E, under point 11);

2. Services supplied by authors, artists, performers, lawyers and other members of the liberal professions, other than the medical and paramedical professions, in so far as these are not services specified in Annex B to the Second Council Directive of 11 April 1967 [1]:

   Services supplied by writers, composers, journalists and press photographers (Annex F, under point 2);

3. Transactions carried out by blind persons or workshops for the blind provided these exemptions do not give rise to significant distortion of competition (Annex F, point 7);

4. Services of experts in connection with insurance claim assessments (Annex F, point 11);

[1] OJ No L 71, 14. 4. 1967, p. 1303/67.

5. For taxable persons who make use, under Article 28 (3) (c) of the Sixth Directive, of the right of option for the taxation covered by paragraph 2 of Annex G to that Directive :

   Services provided for their members by employers' associations which have opted to be regarded as taxable persons (Annex G, point 2).

Article 2

When calculating the VAT resources basis for 1979, the Kingdom of the Netherlands is hereby authorized, pursuant to the second indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, to use approximate estimates to calculate the basis for the following transactions referred to in Article 24 (2) of the Sixth Directive and Annex F to that Directive :

1. Transactions carried out by small traders granted graduated tax relief under Article 24 (2) of the Sixth Directive ;

2. Services supplied by undertakers and cremation services, together with goods related thereto (Annex F, point 6);

3. Treatment of animals by veterinary surgeons (Annex F, point 9);

4. The transport by ferry-boat of passengers and goods accompanying passengers (Annex F, under point 17);

5. Services by travel agents referred to in Article 26 of the Sixth Directive, together with those provided by travel agents acting in the name and for the account of a passenger for journeys within the Community (Annex F, point 27).

Article 3

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 22 July 1980.

For the Commission

Christopher TUGENDHAT

Member of the Commission

13. 12. 80 Official Journal of the European Communities No L 336/35

COMMISSION DECISION

of 24 November 1980

concerning requests for authorization submitted by the Grand Duchy of Luxembourg pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax

(Only the French text is authentic)

(80/1134/EEC, Euratom, ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources [1],

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing, in respect of own resources accruing from value added tax, the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources [2], and in particular the first subparagraph of Article 9 (3) and Article 13 (2) thereof,

Having regard to the requests for authorization submitted by the Grand Duchy of Luxembourg,

Whereas the Grand Duchy of Luxembourg applies the method laid down in Title III, Section B of Regulation (EEC, Euratom, ECSC) No 2892/77 for calculating the basis for value added tax own resources (hereinafter referred to as 'VAT resources') for a given year;

Whereas the Council and the Commission have agreed that any Member State which, when calculating the weighting of the various rates provided for in Article 7 (1) of Regulation (EEC, Euratom ECSC) No 2892/77, has specific difficulties in obtaining figures from national accounts for the penultimate year may be authorized by the procedure laid down in Article 13 of that Regulation to use figures relating to another year, which may not be earlier than the fifth year preceding the relevant budget year;

Whereas Luxembourg has stated that it has such difficulties;

Whereas, with regard to the transactions referred to in Article 9 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77, the Member States determine the VAT resources basis, in accordance with paragraph 1 of that Article, from returns to be furnished by taxable persons in accordance with Article 22 of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — common system of value added tax: uniform basis of assessment [3] (hereinafter referred to as the 'Sixth Directive') and, when there is no return, or the return does not contain the necessary information, from appropriate data such as other tax returns, professional accounts and complete statistical series; whereas, under the first indent of the first subparagraph of Article 9 (3) of the Regulation, they may be authorized in certain circumstances not to take into account, in calculating the VAT resources base, one or more of the categories of transactions listed in Annexes E and F to the Sixth Directive to which Article 9 (2) of the Regulation applies or under the second indent of the first subparagraph of 9 (3) of the Regulation to calculate the corresponding VAT resources basis by using approximate estimates;

Whereas Luxembourg has submitted such requests for authorization to the Commission for cases where it considers that precise calculation of the VAT own resources basis would be likely to involve administrative burdens which would be unjustified in relation to the effect of the transactions in question on the total VAT resources basis of that Member State;

Whereas in Luxembourg the only transaction out of those referred to in Article 13 (A) (1) (f) of the Sixth Directive that is exempt is the provision of services by medical or paramedical associations;

[1] OJ No L 94, 28. 4. 1970, p. 19.
[2] OJ No L 336, 27. 12. 1977, p. 8.
[3] OJ No L 145, 13. 6. 1977, p. 1.

Whereas Luxembourg taxes services rendered by travel agencies acting on behalf and for the account of the traveller even in respect of travel outside the Community, but such cases are rare, and whereas such taxation increases revenue;

Whereas in Luxembourg charges for admittance to sporting events are exempt, but there is no macroeconomic information on this sector;

Whereas in Luxembourg transactions relating to the construction, setting out and maintenance of cemeteries, graves and monuments commemorating the war dead are exempt, but the aggregate value of these transactions notified by the Luxembourg authorities is negligible;

Whereas in Luxembourg the management of credit or credit guarantees by a person or body other than the one which granted the credit is exempt, but the aggregate value of these transactions notified by the Luxembourg authorities is negligible;

Whereas the Commission acknowledges that, in so far as these requests by Luxembourg are concerned, accurate calculation of the VAT resources would be likely to involve burdens which would be unjustified in relation to the effect of the transactions in question on the total VAT resources basis of that Member State;

Whereas Luxembourg should be authorized, therefore, under the first indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, not to take into account, when calculating the VAT resources basis, the categories of transactions listed in Annexes E and F to the Sixth Directive which would require the abovementioned calculation to be made;

Whereas, moreover, in Luxembourg telecommunications services supplied by public postal services and supplies of goods incidental thereto are exempt, but the Luxembourg authorities can construct a national basis corresponding to these transactions by means of figures taken from the accounts of the relevant public services;

Whereas the supply of water by public authorities is exempt, but the notional basis corresponding to these transactions can be constructed from an annual survey conducted at the municipal authorities;

Whereas Luxembourg should be authorized under the second indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77 to use approximate estimates in respect of these requests for calculating the VAT resources basis;

Whereas in the early years of implementation of the Sixth Directive authorization should be granted annually;

Whereas the Advisory Committee on Own Resources has approved the report recording the opinions of its members on this Decision,

HAS ADOPTED THIS DECISION:

Article 1

When calculating the weighting of rates as provided for in Article 7 of Regulation (EEC, Euratom, ECSC) No 2892/77, the Grand Duchy of Luxembourg is hereby authorized for 1980 to use figures taken from national accounts relating to 1976.

Article 2

When calculating the VAT resources basis for 1980, the Grand Duchy of Luxembourg is hereby authorized, pursuant to the first indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, not to take into account the following categories of transactions listed in Annex F to the Sixth Directive:

1. transactions referred to in Article 13 (A) (1) (f) of the Sixth Directive other than those supplied by medical or paramedical associations (Annex E, point 3);

2. services supplied by travel agencies acting on behalf and for the account of the traveller for journeys outside the Community (Annex E, point 15);

3. admission to sporting events (Annex F, point 1);

4. the supply of goods and services to official bodies responsible for the construction, setting out and maintenance of cemeteries, graves and monuments commemorating the war dead (Annex F, point 8);

5. the management of credit and credit guarantees by a person or body other than the one which granted the credit (Annex F, point 13).

Article 3

When calculating the VAT resources basis for 1980, the Grand Duchy of Luxembourg is hereby authorized, pursuant to the second indent of the first paragraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, to use approximate estimates to

calculate the basis for the following categories of transactions referred to in Annex F to the Sixth Directive :

1. telecommunications services supplies by public postal services and supplies of goods incidental thereto (Annex F, point 5);

2. the supply of water by public authorities (Annex F, item 12).

Article 4

This Decision is addressed to the Grand Duchy of Luxembourg.

Done at Brussels, 24 November 1980.

For the Commission

Christopher TUGENDHAT

Member of the Commission

No L 375/76 Official Journal of the European Communities 31. 12. 80

COUNCIL DIRECTIVE

of 22 December 1980

amending Directive 72/464/EEC on taxes other than turnover taxes which affect the consumption of manufactured tobacco

(80/1275/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas, under Council Directive 72/464/EEC (4), as last amended by Directive 77/805/EEC (5), the transition from one stage of harmonization to the next shall be decided on by the Council on a proposal from the Commission;

Whereas the second stage of harmonization, introduced by Directive 77/805/EEC expires on 31 December 1980;

Whereas the special criteria applicable during the third stage, which should begin on 1 January 1981, are dealt with in a proposal for a Directive submitted by the Commission (6);

Whereas the Council will not be in a position to decide on that proposal before 31 December 1980;

Whereas, in these circumstances, it is necessary that the second stage be extended by six months;

Whereas the derogation granted to the United Kingdom under Article 10c of Council Directive 72/464/EEC should also be extended by six months,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. In Article 10a (1) of Directive 72/464/EEC, '31 December 1980' is hereby replaced by '30 June 1981'.

2. In the first subparagraph of Article 10c of Directive 72/464/EEC '30 months' is hereby replaced by '36 months'.

Article 2

This Directive is addressed to the Member States.

Done at Brussels, 22 December 1980.

For the Council

The President

J. SANTER

(1) OJ No C 311, 29. 11. 1980, p. 5.
(2) OJ No C 346, 31. 12. 1980, p. 126.
(3) Opinion delivered on 10 December 1980 (not yet published in the Official Journal).
(4) OJ No L 303, 31. 12. 1972, p. 1.
(5) OJ No L 338, 20. 12. 1977, p. 22.
(6) OJ No C 264, 11. 10. 1980, p. 6.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 27 April 1981

concerning requests for authorization submitted by Ireland pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax

(Only the English text is authentic)

(81/368/Euratom, ECSC, EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities own resources [1],

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources [2], and in particular Article 5 (3) (b), the first subparagraph of Article 9 (3) and Article 13 (2),

Having regard to the requests for authorization submitted by Ireland,

Whereas Ireland applies the method laid down in Title III, Section A, of Regulation (EEC, Euratom, ECSC) No 2892/77 for calculating the basis for value added tax own resources, hereinafter referred to as 'VAT resources', for a given year;

Whereas, when the information contained in the returns of taxable persons does not enable the VAT resources basis to be determined with precision, and if the margin of error is not negligible, the Member States may, under Article 5 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77 and in accordance with the procedure laid down in Article 13 of that Regulation, be authorized to apply to the information obtained from the returns a correcting factor calculated from appropriate data in order to determine the VAT resources basis in a way which will permit only a negligible margin of error;

Wheras in Ireland the margin of error as regards the information contained in returns relating to zero-rated transactions is not negligible; whereas, therefore, a correcting factor should be applied to it;

Whereas, with regard to the transactions referred to in Article 9 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77, the Member States determine the VAT resources basis, in accordance with paragraph 1 of that Article, from returns to be furnished by taxable persons in accordance with Article 22 of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value

[1] OJ No L 94, 28. 4. 1970, p. 19.
[2] OJ No L 336, 27. 12. 1977, p. 8.

added tax : uniform basis of assessment (1) (hereinafter called the 'Sixth Directive') and, when there is no return, or the return does not contain the necessary information, from appropriate data such as other tax returns, professional accounts and complete statistical series; whereas, under the first indent of the first subparagraph of Article 9 (3) of that Regulation, they may be authorized in certain circumstances not to take into account, in calculating the VAT resources basis, one or more of the categories of transactions listed in Annexes E, F and G to the Sixth Directive to which Article 9 (2) of that Regulation applies or, under the second indent of the first subparagraph of Article 9 (3) of the Regulation, to calculate the corresponding VAT resources basis by using approximate estimates;

Whereas Ireland has submitted to the Commission such requests for authorization in cases where it considers that precise calculations of the VAT resources basis would be likely to involve administrative burdens which would be unjustified in relation to the effect of the transactions in question on the total VAT resources basis of that Member State;

Whereas in Ireland the services supplied by dental technicians and dental prostheses supplied by dental technicians are taxed, but the Irish authorities are not in possession of accurate data concerning the taxation of such supplies;

Whereas in Ireland the supply of buildings or parts thereof and of the land on which they stand, other than supplies specified in Article 4, paragraph 3 (a), of the Sixth Directive, by taxable persons who are entitled to deduction of imput taxes is taxed, but the transactions cannot be identified; whereas in Ireland the supply of goods to approved bodies which export them as part of their humanitarian, charitable or teaching activities abroad is taxed but generally involves small quantities the value of which is difficult to assess;

Whereas in Ireland the services supplied by accountants are exempt, but, services of this kind supplied to persons other than taxable persons entitled to deduction of imput taxes must be very rare;

Whereas in Ireland debt collection is exempt, but is mainly connected with the activities of taxable persons entitled to deduction of imput taxes;

Whereas the Commission acknowledges that, as regards these requests by Ireland, accurate calculation of the VAT resources would be likely to involve burdens which would be unjustified in relation to the effect of the transactions in question on the total VAT resources basis of that Member State;

Whereas Ireland should be authorized, therefore, under the first indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77 not to take into account, when calculating the VAT resources basis, the categories of transactions listed in Annexes E and F to the Sixth Directive, which would require the abovementioned calculation to be made;

Whereas in Ireland the supply of goods dispatched or transported to a destination outside the territory of the country, as defined in Article 3 of the Sixth Directive, by or on behalf of a purchaser not established within the territory of the country is taxed; whereas, however, the Irish authorities may assess the relevant basis from statistics available to the Irish Tourist Board;

Whereas in Ireland admission to sporting events is exempt, but it is possible to constitute the relevant VAT resources basis from approximate data supplied by the Central Statistics Office, sporting federations and taxation authorities;

Whereas in Ireland the services supplied by lawyers and actuaries are exempt, but the value of these services may be obtained from professional associations;

Whereas in Ireland the supply of greyhounds is exempt, but it is possible to use national statistics to constitute the relevant VAT resources basis;

Whereas in Ireland the services supplied by undertakers and cremation services, together with goods related thereto, are exempt, but the Central Statistics Office can provide the necessary data for constituting the relevant VAT resources basis;

Whereas in Ireland the treatment of animals by veterinary surgeons is exempt, but it is possible to constitute the relevant VAT resources basis from a survey conducted by the National Prices Commission;

Whereas in Ireland the services of travel agents referred to in Article 26 of the Sixth Directive and those of travel agents acting in the name and on account of the traveller for journeys within the Community are exempt, but it is possible to constitute the relevant VAT resources basis from trade figures;

(1) OJ No L 145, 13. 6. 1977, p. 1.

Whereas Ireland should be authorized, under the second indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, to use approximate estimates in respect of these requests for calculating its VAT resources basis;

Whereas, in the early years of implementation of the Sixth Directive, authorization should be granted annually;

Whereas the Advisory Committee on Own Resources has approved the report in which are recorded the opinions of its members of this Decision,

HAS ADOPTED THIS DECISION:

Article 1

In order to enable a VAT resources basis for 1980 to be calculated with only a negligible margin of error, Ireland is hereby authorized, pursuant to Article 5 (3) (b) of Regulation (EEC, Euratom, ECSC) No 2892/77, to apply to the information contained in the returns referred to in Article 22 (4) of the Sixth Directive a correcting factor relating to inputs and outputs relating to transactions which are eligible for exemption with refunds of input taxes.

Article 2

When calculating the VAT resources basis for 1980, Ireland is hereby authorized, pursuant to the first indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, not to take into account the following categories of transactions listed in Annexes E and F to the Sixth Directive:

1. transactions by dental technicians referred to in Article 13 A (1) (e) of the Sixth Directive (Annex E, ex point 2);
2. supplies covered by Article 13 (B) (g) in so far as they are made by taxable persons who are entitled to deduction of input tax on the building concerned (Annex E, point 11);
3. supplies referred to in Article 15, point 12, of the Sixth Directive (Annex E, point 14);
4. services supplied by accountants (Annex F, ex point 2);
5. debt collection (Annex F, point 14).

Article 3

When calculating the VAT resources basis for 1980, Ireland is hereby authorized, pursuant to the second indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, to use approximate estimates to calculate the basis for the following categories of transactions referred to in Annexes E and F to the Sixth Directive;

1. supplies of goods referred to in Article 15, point 2, of the Sixth Directive (Annex E, point 12);
2. admission to sporting events (Annex F, point 1);
3. services supplied by lawyers and actuaries (Annex F, ex point 2);
4. supply of greyhounds (Annex F, ex point 4);
5. services supplied by undertakers and cremation services, together with goods related thereto (Annex F, point 6);
6. treatment of animals by veterinary surgeons (Annex F, point 9);
7. the services of travel agents referred to in Article 26 of the Sixth Directive and those of travel agents acting in the name and on account of the traveller, for journeys within the Community (Annex F, point 27).

Article 4

This Decision is addressed to Ireland.

Done at Brussels, 27 April 1981.

For the Commission

Christopher TUGENDHAT

Vice-President

COMMISSION DECISION

of 27 May 1981

amending Decision 80/822/EEC, Euratom, ECSC concerning requests for authorization submitted by the Netherlands pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax

(Only the Dutch text is authentic)

(81/440/Euratom, ECSC, EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (1),

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (2), and in particular the first subparagraph of Article 9 (3) and Article 13 (2) thereof,

Having regard to Commission Decision 80/822/EEC, Euratom, ECSC of 22 July 1980 concerning requests for authorizations submitted by the Netherlands pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax (3),

Having regard to the application for amendment of Decision 80/822/EEC, Euratom, ECSC submitted for the 1980 financial year by the Netherlands pursuant to the second subparagraph of Article 11 (1) of Regulation (EEC, Euratom, ECSC) No 2892/77,

Whereas authorizations should be granted annually in the early years of implementation of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — common system of value added tax: uniform basis of assessment (4);

Whereas the Advisory Committee on Own Resources has approved the report recording the opinions of its members on this Decision;

HAS ADOPTED THIS DECISION:

Article 1

Decision 80/822/EEC, Euratom, ECSC is hereby amended as follows:

1. In Articles 1 and 2, '1979' shall be replaced by '1979 and 1980'.

2. The following point 6 shall be added to Article 2:

'6. For 1980, transactions carried out by small undertakings granted exemption from tax under Article 24 (2) of the Sixth Directive.'

Article 2

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 27 May 1981.

For the Commission

Christopher TUGENDHAT

Vice-President

(1) OJ No L 94, 20. 4. 1970, p. 19.
(2) OJ No L 336, 27. 12. 1977, p. 8.
(3) OJ No L 239, 12. 9. 1980, p. 23.
(4) OJ No L 145, 13. 6. 1977, p. 1.

No L 183/32 Official Journal of the European Communities 4. 7. 81

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 24 June 1981

amending Directive 72/464/EEC on taxes other than turnover taxes which affect the consumption of manufactured tobacco

(81/463/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

Whereas, under Council Directive 72/464/EEC of 19 December 1972 on taxes other than turnover taxes which affect the consumption of manufactured tobacco (2), as last amended by Directive 80/1275/EEC (3), the transition from one stage of harmonization to the next shall be decided on by the Council on a proposal from the Commission;

Whereas the second stage of harmonization, introduced by Directive 77/805/EEC (4), expires on 30 June 1981;

Whereas the special criteria applicable during the third stage, which should begin on 1 July 1981, are dealt with in a proposal for a Directive submitted by the Commission (5);

Whereas the opinion of the Economic and Social Committee on the said proposal was delivered on 25 February 1981 (6) and the opinion of the European Parliament has not yet been delivered;

Whereas the Council will not be in a position to decide on that proposal before 30 June 1981;

Whereas, under these circumstances, the second stage should be extended by a further six months,

HAS ADOPTED THIS DIRECTIVE:

Article 1

In Article 10a (1) of Directive 72/464/EEC, '30 June 1981' is hereby replaced by '31 December 1981'.

Article 2

This Directive is addressed to the Member States.

Done at Luxembourg, 24 June 1981.

For the Council

The President

G. M. V. van AARDENNE

(1) Opinion delivered on 19 June 1981 (not yet published in the Official Journal).
(2) OJ No L 303, 31. 12. 1972, p. 1.
(3) OJ No L 375, 31. 12. 1980, p. 76.
(4) OJ No L 338, 20. 12. 1977, p. 22.
(5) OJ No C 264, 11. 10. 1980, p. 6.
(6) OJ No C 138, 9. 6. 1981, p. 47.

COMMISSION

COMMISSION DECISION

of 9 June 1981

concerning requests for authorization submitted by the Federal Republic of Germany pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax

(Only the German text is authentic)

(81/478/Euratom, ECSC, EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (1),

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing, in respect of own resources accruing from value added tax, the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (2), and in particular the first subparagraph of Article 9 (3) and Article 13 (2),

Having regard to the requests for authorization submitted by the Federal Republic of Germany,

Whereas the Federal Republic of Germany applies the method laid down in Title III, Section B of Regulation (EEC, Euratom, ECSC) No 2892/77 for calculating the basis for value added tax own resources, hereinafter referred to as 'VAT resources', for a given year;

Whereas the Council and the Commission have agreed that a Member State which claims to have special difficulties in obtaining data from the national accounts for the last year but one for the purposes of calculating the breakdown by rate referred to in Article 7 (1) of Regulation (EEC, Euratom, ECSC) No 2892/77 may be authorized, in accordance with the procedure laid down in Article 13 of that Regulation, to use data relating to another year, which may not, however, be earlier than the fifth year preceding the financial year in question;

Whereas the Federal Republic of Germany claims to be having such difficulties;

Whereas, with regard to the transactions referred to in Article 9 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77, the Member States determine the VAT resources basis, in accordance with paragraph 1 of that Article, from returns to be furnished by taxable persons in accordance with Article 22 of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (3) (hereinafter called the 'Sixth Directive') and, when there is no return, or the return does not contain the necessary information, from appropriate data such as other tax returns, professional accounts and complete statistical series; whereas, under the first indent of the first subparagraph of Article 9 (3) of that Regulation, they may be authorized in certain circumstances not to take into account, in calculating the VAT resources basis, one or more of the categories of transactions listed in Annexes E, F and G to the Sixth Directive to which Article 9 (2) of that Regulation applies or, under the second indent of the first subparagraph of Article 9 (3) of the Regulation, to calculate the corresponding VAT resources basis by using approximate estimates;

(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No L 336, 27. 12. 1977, p. 8.

(3) OJ No L 145, 13. 6. 1977, p. 1.

Whereas the Federal Republic of Germany has submitted to the Commission such requests for authorization for cases where it considers that precise calculation of the VAT resources basis would be likely to involve administrative burdens which would be unjustified in relation to the effect of the transactions in question on the total VAT resources basis of that Member State;

Whereas in the Federal Republic of Germany the services of travel agents acting in the name and on account of the traveller are taxable even for journeys outside the Community, but such cases are insignificant, and this taxation increases revenue;

Whereas in the Federal Republic of Germany transactions carried out by blind persons or workshops for the blind are exempted, although the undertakings concerned have the right to treat these transactions as taxable, if these transactions are carried out for another taxable person for use in his own business, but the number of these undertakings is small and moreover the amount of the transactions concerned is not very great;

Whereas in the Federal Republic of Germany the management of credits and credit guarantees by a person or a body other than the one which granted the credits is exempted, but the German authorities allow the undertakings concerned to opt for taxation if the taxable transactions are carried out for another taxable person for use in his business; whereas the consequence of this exempted activity is insignificant;

Whereas the Commission acknowledges that in respect of these requests by the Federal Republic of Germany precise calculation of the VAT resources basis would be likely to involve burdens which would be unjustified in relation to the effect of the transactions in question on the total VAT resources basis of that Member State;

Whereas the Federal Republic of Germany should be authorized, therefore, under the first indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77 not to take into account, when calculating the VAT resources basis, the categories of transactions listed in Annex E and F to the Sixth Directive which would require the abovementioned calculation to be made;

Whereas, in the case of those small undertakings for which in the Federal Republic of Germany certain are granted graduated tax relief, a compensatory adjustment should be made for the amount of taxes not collected as a result, and statistics exist which would enable the amount of the adjustment to be estimated;

Whereas in the Federal Republic of Germany the supply of dental prostheses and the provision of services relating thereto by dental technicians as well as the supply of dental prostheses by dentists — where the dental prosthesis is made by the dentist — is taxed, but it is possible to constitute the relevant VAT own resources basis for such transactions from data relating to sickness insurance;

Whereas in the Federal Republic of Germany telecommunications services and supplies of goods incidental thereto, supplied by public postal services, are exempted except for the provision and maintenance of secondary telephone equipment by the Federal German Post Office, but the German authorities can constitute the VAT own resources basis for these supplies from the accounts kept by these public services;

Whereas in the Federal Republic of Germany the safekeeping and management of shares are exempted although undertakings are entitled to treat the transactions in question as taxable transactions if they are carried out for the sole benefit of another undertaking, but the German authorities can constitute the relevant VAT own resources basis for the transactions actually exempted from data furnished by bankers;

Whereas in the Federal Republic of Germany the supply of land with new buildings and building land is exempted, although undertakings are entitled to treat the transactions as taxable transactions if they are carried out for another undertaking for its own needs, but the German authorities can constitute the relevant VAT own resources basis for the transactions actually exempted from statistical figures furnished by the Federal Statistical Office and professional housing bodies;

Whereas in the Federal Republic of Germany passenger transport by boat (on inland waterways) is exempted, but the German authorities can constitute the relevant VAT own resources basis for this activity from the turnover of the undertakings concerned;

Whereas, in response to its requests on these points, the Federal Republic of Germany should be authorized pursuant to the second indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77 to use approximate estimates for calculating the VAT resources basis;

Whereas in the early years of implementation of the Sixth Directive authorization should be granted annually;

Whereas the Advisory Committee on Own Resources has approved the report in which are recorded the opinions of its members of this Decision,

HAS ADOPTED THIS DECISION:

Article 1

In order to perform the breakdown by rate referred to in Article 7 (1) of Regulation (EEC, Euratom, ECSC) No 2892/77, the Federal Republic of Germany is hereby authorized for 1980 to use data obtained from the national accounts for 1977 or, if the data for 1977 is not available in time, from those of 1976.

Article 2

When calculating the VAT resources basis for 1980, the Federal Republic of Germany is hereby authorized, pursuant to the first indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, not to take into account the following categories of transactions listed in Annexes E and F to the Sixth Directive:

1. The services of travel agents acting in the name and on account of the traveller for journeys outside the Community (Annex E, point 15).

2. Transactions carried out by blind persons or workshops for the blind (Annex F, point 7).

3. Management of credit and credit guarantees by a person or body other than the one which granted the credits (Annex F, point 13).

Article 3

When calculating the VAT resources basis for 1980, the Federal Republic of Germany is hereby authorized, pursuant to the second indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, to use approximate estimates to calculate the basis for transactions for which tax was not collected because of the graduated tax relief granted under Article 24 (2) of the Sixth Directive and for certain categories of transactions listed in Annexes E and F to the Sixth Directive:

1. Transactions carried out by small undertakings enjoying graduated tax relief.

2. Supplies of dental prostheses and the provision of services relating thereto by dental technicians and supplies of dental prostheses by dentists when these prostheses are made by dentists themselves (Annex E, point 2).

3. Telecommunications services and supplies of goods incidental thereto supplies by public postal services, excluding the supply and maintenance of secondary telephone installations by the Federal Post Office (Annex F, point 5).

4. The safekeeping and management of securities (Annex F, point 15).

5. Supplies of those buildings and land described in Article 4 (3) of the Sixth Directive (land with new buildings and building land) (Annex F, point 16).

6. Passenger transport by boat (on inland waterways) (Annex F, point 17).

Article 4

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 9 June 1981.

For the Commission

Christopher TUGENDHAT

Vice-President

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 3 November 1981

authorizing the Italian Republic to derogate temporarily from the value added tax arrangements in the context of aid to earthquake victims in southern Italy

(81/890/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 99 thereof,

Having regard to the proposal from the Commission,

Whereas the Italian Government has requested a temporary derogation from the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment [1];

Whereas this temporary derogation relates to the non-imposition of VAT, up to 31 December 1981, on goods and services supplied by way of emergency relief to the victims of the earthquake of November 1980;

Whereas the special situation has led the Italian Government to request this temporary derogation;

Whereas the non-imposition of VAT is limited to those transactions listed in Decree Laws No 799/80 and No 11/81 of the Italian Government validated by Laws No 875 of 22 December 1980 and No 104 of 30 March 1981;

Whereas the Italian Republic must take such administrative measures as are necessary to record the transactions concerned in order that the Community's own resources in respect of those transactions can be determined,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Directive 77/388/EEC, the Italian Republic is hereby authorized, until 31 December 1981, to exempt, with refund of the tax paid at the preceding stage, the transactions referred to in Article 5 of Decree Law No 799 of 5 December 1980, as amended by Law No 875 of 22 December 1980, and in Article 2 of Decree Law No 11 of 31 January 1981, as amended by Law No 104 of 30 March 1981, these transactions, together with the arrangements for exempting them, are listed in the Annex hereto.

Article 2

The Italian Republic shall adopt such provisions as are necessary to ensure that taxable persons furnish the information required for determining the Community's own resources in respect of the transactions referred to in Article 1 and shall ensure that the text of those provisions is transmitted to the Commission.

Article 3

This Decision is addressed to the Italian Republic.

Done at Brussels, 3 November 1981.

For the Council

The President

N. MARTEN

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[1] OJ No L 145, 13. 6. 1977, p. 1.

ANNEX

List of exempt transactions and exemption arrangements communicated by the Italian Government

Without prejudice to requirements in connection with invoicing and registration, exemption with refund of the tax paid at the preceding stage shall apply to the following transactions:

(a) the supply of prefabricated buildings, whether or not intended for residential purposes, including their assembly if necessary, in the Basilicata and Campania regions, and the supply of goods and services, whether or not under a contract for work and labour, for the provision of related infrastructure. The taxable person shall, at the request of the inspectorate of the financial administration, supply proof, in the form of a certificate from the commune, that the said buildings have, in fact, been erected;

(b) the supply of motor caravans and mobile homes intended for use, whether or not for a business activity, in the regions mentioned in subparagraph (a). The taxable person shall, at the request of the inspectorate of the financial administration, supply proof, in the form of a certificate from the commune, of the use to which the caravans and mobile homes were put;

(c) the supply of goods and services, whether or not under a contract for work and labour, for rebuilding or repairing buildings, intended for residential or other purposes, and equipment destroyed or damaged by the earthquake in the regions mentioned in subparagraph (a). The actual destruction or damage must be duly attested by the commune in whose area the buildings or installations are situated, or by the civil engineering department or the technical department of the tax office responsible for the territory in question;

(d) the supply of goods and services to farms to renew and restore livestock and deadstock destroyed or damaged by the earthquake in the regions mentioned in subparagraph (a). The actual destruction or damage must be duly attested by the commune in whose area the farm is situated, and by the appropriate regional body;

(e) supplies by firms engaged in the construction of buildings or parts of buildings, intended for residential or other purposes, situated in the regions mentioned in subparagraph (a), and the supply of services under contract connected with the construction of those buildings;

(f) the supply of goods and services, including professional services, associated with the repair, construction or reconstruction of public facilities and amenities, and with demolition work and the removal of debris;

(g) the supply of electric space heating apparatus (heading No ex 85.12 of the Common Customs Tariff), of boilers and radiators of iron or steel fuelled by wood, coal, or petroleum derived gases (heading No ex 73.37 of the Common Customs Tariff), and of stoves, ranges, cookers and grates of iron or steel (heading No ex 73.36 of the Common Customs Tariff) for use in the regions mentioned in subparagraph (a) by earthquake victims;

(h) supplies of services relating to the transportation of goods referred to in the preceding subparagraphs and effected on behalf of the Commissioner appointed pursuant to Article 5 of the Law No 996 of 8 December 1970 as well as the supply of goods and services effected in the context of urgent operations on behalf of the said Commissioner or public bodies acting in his name and on his account;

(i) the importation of goods described in subparagraphs (a), (b), (c), (d), (f) and (g) on behalf of the Commissioner appointed pursuant to Article 5 of Law No 996 of 8 December 1970 and on behalf of public bodies for distribution free of charge to victims of the earthquake.

The exemptions referred to in subparagraphs (a) to (g) shall apply to the supply of goods and services: to earthquake victims, duly recognized as such in certificates issued by the appropriate commune, to the Commissioner appointed pursuant to Article 5 of Law No 996 of 8 December 1970, or to public bodies, political, trade union, professional, religious, philanthropic, cultural and sporting organizations and to the press, provided that the goods and services in question are distributed free of charge to the earthquake victims as attested by a certificate issued by the commune.

No L 338/24 Official Journal of the European Communities 25. 11. 81

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 17 November 1981

amending Directives 69/169/EEC and 78/1035/EEC as regards tax reliefs applicable in international travel and to imports of small consignments of goods of a non-commercial character from third countries

(81/933/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 99 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas the fixing of the equivalent in national currency of the tax reliefs provided for in Council Directive 69/169/EEC of 28 May 1969 on the harmonization of provisions laid down by law, regulation or administrative action relating to exemption from turnover tax and excise duty on imports in international travel (4), as last amended by Directive 78/1033/EEC (5) and in Council Directive 78/1035/EEC of 19 December 1978 on the exemption from taxes of imports of small consignments of goods of a non-commercial character from third countries (6) would result in a reduction in terms of national currency in the tax reliefs applicable in one Member State; whereas, in the present circumstances, such a reduction should be avoided,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Article 1 of Directive 69/169/EEC shall be amended as follows:

(a) in paragraph 1, the expression '40 European units of account' shall be replaced by '45 ECU',

(b) in paragraph 2, the expression '20 European units of account' shall be replaced by '23 ECU'.

Article 2

In the third indent of Article 1 (2) of Directive 78/1035/EEC the expression '30 EUA' shall be replaced by '35 ECU'.

Article 3

1. Member States shall take the measures necessary to comply with this Directive as from 1 January 1982.

2. Member States shall inform the Commission of the provisions they adopt for the application of this Directive.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 17 November 1981.

For the Council

The President

G. HOWE

(1) OJ No C 350, 31. 12. 1980, p. 21.
(2) OJ No C 144, 15. 6. 1981, p. 76.
(3) OJ No C 159, 29. 6. 1981, p. 5.
(4) OJ No L 133, 4. 6. 1969, p. 6.
(5) OJ No L 366, 28. 12. 1978, p. 31.
(6) OJ No L 366, 28. 12. 1978, p. 34.

25. 11. 81 Official Journal of the European Communities No L 338/25

COUNCIL DIRECTIVE

of 17 November 1981

amending Directive 74/651/EEC on the tax reliefs to be allowed on the importation of goods in small consignments of a non-commercial character within the Community

(81/934/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas the fixing of the equivalent in national currency of the tax relief provided for in Council Directive 74/651/EEC of 19 December 1974 on the tax reliefs to be allowed on the importation of goods in small consignments of a non-commercial character within the Community (4), as last amended by Directive 78/1034//EEC (5), would result in a reduction in terms of national currency in the tax relief applicable in one Member State ; whereas in the present circumstances such a reduction should be prevented,

HAS ADOPTED THIS DIRECTIVE :

Article 1

In Article 1 (2) (d) of Directive 74/651/EEC the expression '60 European units of account' shall be replaced by '70 ECU'.

Article 2

1. Member States shall take the measures necessary to comply with this Directive as from 1 January 1982.

2. Member States shall inform the Commission of the provisions they adopt for the application of this Directive.

Article 3

This Directive is addressed to the Member States.

Done at Brussels, 17 November 1981.

For the Council

The President

G. HOWE

(1) OJ No C 350, 31. 12. 1980, p. 21.
(2) OJ No C 144, 15. 6. 1981, p. 76.
(3) OJ No C 159, 29. 6. 1981, p. 5.
(4) OJ No L 354, 30. 12. 1974, p. 57.
(5) OJ No L 366, 28. 12. 1978, p.33.

23. 12. 81 Official Journal of the European Communities No L 367/33

COMMISSION

COMMISSION DECISION

of 18 November 1981

extending the Decisions relating to requests for authorization submitted by the Kingdom of Belgium (80/31/EEC, Euratom, ECSC), by the Kingdom of Denmark (80/384/EEC, Euratom, ECSC), by the Italian Republic (80/513/EEC, Euratom, ECSC), by the United Kingdom (80/774/EEC, Euratom, ECSC), and by the French Republic (80/821/EEC, Euratom, ECSC), concerning own resources accruing from value added tax

(Only the Danish, Dutch, English, French and Italian texts are authentic)

(81/1017/Euratom, ECSC, EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from the Member States by the Communities' own resources [1],

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources [2], and in particular the first subparagraph of Article 9 (3), the second subparagraph of Article 11 (1) and Article 13 (2),

Having regard to Commission Decision 80/31/EEC, Euratom, ECSC of 22 November 1979 concerning requests for authorization submitted by the Kingdom of Belgium pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax [3],

Having regard to Commission Decision 80/384/EEC, Euratom, ECSC of 17 March 1980 concerning requests for authorization submitted by the Kingdom of Denmark pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax [4],

Having regard to Commission Decision 80/513/EEC, Euratom, ECSC of 2 May 1980 concerning requests for authorization submitted by the Italian Republic pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax [5],

Having regard to Commission Decision 80/774/EEC, Euratom, ECSC of 18 July 1980 concerning requests for authorization submitted by the United Kingdom pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax [6],

Having regard to Commission Decision 80/821/EEC, Euratom, ECSC of 22 July 1980 concerning requests for authorization submitted by the French Republic pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax [7],

Having regard to the requests for extension of the authorization Decisions submitted by the Kingdom of Belgium, the Kingdom of Denmark, the Italian Republic, the United Kingdom and the French Republic,

(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No L 336, 27. 12. 1977, p. 8.
(3) OJ No L 13, 18. 1. 1980, p. 31.
(4) OJ No L 94, 11. 4. 1980, p. 42.
(5) OJ No L 126, 21. 5. 1980, p. 17.
(6) OJ No L 222, 23. 8. 1980, p. 11.
(7) OJ No L 239, 12. 9. 1980, p. 20.

Whereas in the early years of implementation of the sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment [1], authorization should be granted annually;

Whereas the Advisory Committee on Own Resources has approved the report in which are recorded the opinions of its members on this Decision,

HAS ADOPTED THIS DECISION:

Article 1

The following Decisions are hereby extended for the 1980 financial year:

— Decision 80/31/EEC, Euratom, ECSC concerning the Kingdom of Belgium,

— Decision 80/384/EEC, Euratom, ECSC concerning the Kingdom of Denmark,

— Decision 80/513/EEC, Euratom, ECSC concerning the Italian Republic,

— Decision 80/774/EEC, Euratom, ECSC concerning the United Kingdom,

— Decision 80/821/EEC, Euratom, ECSC concerning the French Republic.

Article 2

This Decision is addressed to the Kingdom of Belgium, the Kingdom of Denmark, the French Republic, the Italian Republic and the United Kingdom.

Done at Brussels, 18 November 1981.

For the Commission

Christopher TUGENDHAT

Vice-President

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[1] OJ No L 145, 13. 6. 1977, p. 1.

COUNCIL DIRECTIVE

of 21 December 1981

amending Directive 72/464/EEC on taxes other than turnover taxes which affect the consumption of manufactured tobacco

(82/2/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas, under Directive 72/464/EEC (4), as last amended by Directive 81/463/EEC (5), the transition from one stage of harmonization to the next shall be decided on by the Council on a proposal from the Commission;

Whereas the second stage of harmonization, introduced by Directive 72/805/EEC (6), expires on 31 December 1981;

Whereas the special criteria applicable during the third stage are dealt with in a proposal for a Directive presented by the Commission (7);

Whereas the opinion of the Economic and Social Committee was delivered on 25 February 1981 (8) and the opinion of the European Parliament will be delivered only following examination of a detailed study on the effects of proceeding with harmonization; whereas the study will not be available until March 1982;

Whereas, in these circumstances, a sufficiently long extension of the second stage is necessary to enable the European Parliament to deliver its opinion and the Council to decide on the rules for the application of a third stage of harmonization,

HAS ADOPTED THIS DIRECTIVE:

Article 1

In Article 10a (1) of Directive 72/464/EEC, '31 December 1981' shall be replaced by '31 December 1982'.

Article 2

This Directive is addressed to the Member States.

Done at Brussels, 21 December 1981.

For the Council

The President

N. RIDLEY

(1) OJ No C 285, 7. 11. 1981, p. 8.
(2) Opinion delivered on 18 December 1981 (not yet published in the Official Journal).
(3) Opinion delivered on 25 and 26 November 1981 (not yet published in the Official Journal).
(4) OJ No L 303, 31. 12. 1972, p. 1.
(5) OJ No L 183, 4. 7. 1981, p. 32.
(6) OJ No L 338, 20. 12. 1977, p. 22.
(7) OJ No C 264, 11. 10. 1980, p. 6.
(8) OJ No C 138, 9. 6. 1981, p. 47.

No L 184/26 Official Journal of the European Communities 29. 6. 82

COUNCIL DECISION

of 21 June 1982

authorizing the Italian Republic to derogate until 31 December 1982 from the value added tax arrangements in the context of aid to earthquake victims in southern Italy

(82/424/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 99 thereof,

Having regard to the proposal from the Commission,

Whereas the Italian Government has requested an extension of the temporary derogation from the value added tax arrangements fixed by the sixth Directive 77/388/EEC (1); whereas this derogation was authorized until 31 December 1981 by Decision 81/890/EEC (2);

Whereas this extension is necessary in view of the special situation of the disaster areas; whereas the list of transactions eligible for exemption and the arrangements for exemption should however, be adjusted;

Whereas, pursuant to Article 2 of Decision 81/890/EEC, the Italian Republic has taken such administrative measures as were necessary to determine the Community's own resources in respect of the said operations; whereas these provisions should be maintained for the transactions referred to in this Decision,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Directive 77/388/EEC, the Italian Republic is hereby authorized, until 31 December 1982, to exempt, with refund of the tax paid at the preceding stage, the transactions listed, together with the arrangements for exempting them, in the Annex hereto.

Article 2

The Italian Republic shall adopt such provisions as are necessary to ensure that taxable persons furnish the information required for determining the Community's own resources in respect of the transactions referred to in Article 1 and shall ensure that the text of those provisions is transmitted to the Commission.

Article 3

This Decision is addressed to the Italian Republic.

Done at Luxembourg, 21 June 1982.

For the Council

The President

L. TINDEMANS

(1) OJ No L 145, 13. 6. 1977, p. 1.
(2) OJ No L 322, 11. 11. 1981, p. 40.

ANNEX

List of exempt transactions and exemption arrangements

Without prejudice to requirements in connection with invoicing and registration, exemption with refund of the tax paid at the preceding stage shall apply to the following transactions:

(a) the supply of prefabricated buildings, intended for residential or other purposes, including their assembly if necessary, in the Basilicata and Campania regions, and the supply of goods and services, whether or not under a contract for work and labour, for the provision of related infrastructure. The taxable person shall, at the request of the inspectorate of the financial administration, supply proof, in the form of a certificate from the municipality, that the said buildings have in fact been erected;

(b) the supply of goods and services, whether or not under a contract for work and labour, for rebuilding or repairing buildings intended for residential or other purposes and equipment destroyed or damaged by the earthquake in the regions mentioned in subparagraph (a). The actual destruction or damage must be duly attested by the municipality in whose area the buildings or installations are situated or by the civil engineering department or the technical department of the tax office responsible for the territory in question;

(c) the supply of goods and services to farms to re-stock and restore livestock and deadstock destroyed or damaged by the earthquake in the regions mentioned in subparagraph (a). The actual destruction or damage must be duly attested by the municipality in whose area the farm is situated and by the appropriate regional body;

(d) supplies by firms engaged in the construction of buildings or parts of buildings intended for residential or other purposes, situated in the regions mentioned in subparagraph (a), and the supply of services under a contract for work or labour connected with the construction of those buildings;

(e) the supply of goods and services, including professional services, associated with work in progress on the repair, construction or reconstruction of public facilities and amenities and on demolition and the removal of debris.

The exemptions referred to in (a) to (e) shall apply to the supply of goods and services to earthquake victims, duly recognized as such in certificates issued by the appropriate municipality, to public bodies and trade union, religious and philanthropic organizations, and to information agencies, provided that the goods and services in question are distributed free of charge to the earthquake victims as attested by a certificate issued by the municipality.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 29 June 1982

amending Directives 69/169/EEC and 77/800/EEC as regards the rules governing turnover tax and excise duty applicable in international travel

(82/443/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 99 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas intra-Community tax-free allowances contribute to the interpenetration of Member States' economies;

Whereas, in order to achieve this objective and in the interests of the population of the Member States, the value of the exemptions laid down by Article 2 of Council Directive 69/169/EEC of 28 May 1969 on the harmonization of provisions laid down by law, regulation or administrative action relating to exemption from turnover tax and excise duty on imports in international travel (4), as last amended by Directive 81/933/EEC (5), should be increased;

Whereas for expressions of alcoholic strength it is necessary to take account of Council Directive 76/766/EEC of 27 July 1976 on the approximation of the laws of the Member States relating to alcohol tables (6), and accordingly to amend Articles 4 and 5 of Directive 69/169/EEC and Article 1 of Council Directive 77/800/EEC of 19 December 1977 on a derogation accorded to the Kingdom of Denmark relating to the rules governing turnover tax and excise duty applicable in international travel (7);

Whereas on the grounds of the present economic situation a further period of time should be granted to the Kingdom of Denmark in which to apply the increase in value of the allowance for persons travelling from other Member States of the Community,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Articles 1 and 2 of Directive 69/169/EEC shall be amended as follows:

1. In Article 1 (3), '40 European units of account' shall be replaced by 'the amount set out in paragraph 1'.

2. In Article 2 (1), '180 European units of account' shall be replaced by '210 ECU'.

(1) OJ No C 318, 19. 12. 1979, p. 5.
(2) OJ No C 117, 12. 5. 1980, p. 83.
(3) OJ No C 113, 7. 5. 1980, p. 34.
(4) OJ No L 133, 4. 6. 1969, p. 6.
(5) OJ No L 338, 25. 11. 1981, p. 24.
(6) OJ No L 262, 27. 9. 1976, p. 149.
(7) OJ No L 336, 27. 12. 1977, p. 21.

3. In Article 2 (2), '50 European units of account' shall be replaced by '60 ECU'.

4. In Article 2 (3), '180 European units of account' shall be replaced by 'the amount set out in paragraph 1'.

Article 2

In Articles 4 and 5 of Directive 69/169/EEC and Article 1 of Directive 77/800/EEC, '22°' shall be replaced by '22 % vol'.

Article 3

1. Member States shall bring into force the measures necessary to comply with this Directive with effect from 1 January 1983.

However, the Kingdom of Denmark shall put into force the necessary measures to comply with Article 1 (2) not later than 1 January 1984.

2. Member States shall inform the Commission of the provisions which they adopt to implement this Directive.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 29 June 1982.

For the Council

The President

P. de KEERSMAEKER

No L 320/16 Official Journal of the European Communities 17. 11. 82

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 6 October 1982

concerning requests for authorization submitted by the Grand Duchy of Luxembourg, Ireland and the Federal Republic of Germany pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax

(Only the English, French and German texts are authentic)

(82/758/ECSC, EEC, Euratom)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (1),

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax, the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (2), and in particular the first subparagraph of Article 9 (3) and Article 13 (2) thereof,

Having regard to Commission Decision 80/1134/EEC, Euratom, ECSC of 24 November 1980 concerning requests for authorization submitted by the Grand Duchy of Luxembourg pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax (3),

Having regard to Commission Decision 81/368/Euratom, ECSC, EEC of 27 April 1981 concerning requests for authorization submitted by Ireland pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax (4),

Having regard to Commission Decision 81/478/Euratom, ECSC, EEC of 9 June 1981 concerning requests for authorization submitted by the Federal Republic of Germany pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax (5),

Having regard to the requests for extension of the authorization Decisions submitted by the Grand Duchy of Luxembourg, Ireland and the Federal Republic of Germany,

Whereas the Grand Duchy of Luxembourg still wishes to use figures for a year earlier than the penultimate one for the breakdown provided for in Article 7 of Regulation (EEC, Euratom, ECSC) No 2892/77;

(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No L 336, 27. 12. 1977, p. 8.
(3) OJ No L 336, 13. 12. 1980, p. 35.
(4) OJ No L 145, 3. 6. 1981, p. 15.
(5) OJ No L 186, 8. 7. 1981, p. 23.

Whereas the same applies to the Federal Republic of Germany;

Whereas the provision of goods and services to two international organizations handling the construction, setting out and maintenance of cemeteries, tombs and monuments commemorating the war dead is exempt in Luxembourg by virtue of Article 15 (10) of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (1);

Whereas in the early years of implementation of the Sixth Directive authorizations should be granted annually;

Whereas the Advisory Committee on Own Resources has approved the report recording the opinions of its members on this Decision,

HAS ADOPTED THIS DECISION:

Article 1

The following Decisions are hereby extended for the 1981 financial year:

— Decision 80/1134/EEC, Euratom, ECSC concerning the Grand Duchy of Luxembourg (with '1976' amended to '1977' in Article 1 and item 4 of Article 2 deleted),

— Decision 81/368/Euratom, ECSC, EEC concerning Ireland,

— Decision 81/478/Euratom, ECSC, EEC concerning the Federal Republic of Germany (with '1977' and '1976' amended to '1978' and '1977' respectively in Article 1).

Article 2

This Decision is addressed to the Grand Duchy of Luxembourg, Ireland and the Federal Republic of Germany.

Done at Brussels, 6 October 1982.

For the Commission

Christopher TUGENDHAT

Vice-President

(1) OJ No L 145, 13. 6. 1977, p. 1.

No L 320/18 Official Journal of the European Communities 17. 11. 82

COMMISSION DECISION

of 6 October 1982

concerning requests for authorization submitted by the French Republic pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax

(Only the French text is authentic)

(82/759/ECSC, EEC, Euratom)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from the Member States by the Communities' own resources (1),

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing, in respect of own resources accruing from value added tax, the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (2), and in particular the first subparagraph of Article 9 (3) and Article 13 (2) thereof,

Having regard to Commission Decision 80/821/EEC, Euratom, ECSC of 22 July 1980 concerning requests for authorization submitted by the French Republic pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax (3),

Having regard to Commission Decision 81/1017/Euratom, ECSC, EEC of 18 November 1981 extending, among others, the Decision concerning the requests for authorization submitted by the French Republic (80/821/EEC, Euratom, ECSC) as regards own resources accruing from value added tax (4),

Having regard to the request for extension submitted by the French Republic,

Whereas the French Republic exempts transactions in the international transport of passengers that relate to the portion of the journey undertaken on national territory, and is empowered to do so by Article 28 (3) (b) of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (5);

Whereas the French Republic must nevertheless take these transactions into account when calculating the VAT own resources basis, since they are transactions listed in Annex F 17 to the Sixth Directive;

Whereas the French Republic, which does not have adequate data relating to these transactions, should be authorized pursuant to the second indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77 to use approximate estimates in order to establish its VAT own resources basis for 1981;

Whereas authorizations earlier given to the French Republic for 1979 and 1980 should be extended for 1981;

Whereas in the early years of implementation of the Sixth Directive authorizations should be granted annually;

Whereas the Advisory Committee on Own Resources has approved the report recording the opinions of its members on this Decision,

HAS ADOPTED THIS DECISION:

Article 1

When calculating VAT own resources basis for 1981, the French Republic is hereby authorized, pursuant to the first indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, not to take into account the following categories of transactions listed in Annexes F and G to the Sixth Directive:

1. *supply of services by means of agricultural machinery for individual or associated agricultural undertakings* (Annex F, point 3);

(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No L 336, 27. 12. 1977, p. 8.
(3) OJ No L 239, 12. 9. 1980, p. 20.
(4) OJ No L 367, 23. 12. 1981, p. 33.
(5) OJ No L 145, 13. 6. 1977, p. 1.

2. *transactions carried out by blind persons or workshops for the blind, provided these exemptions do not give rise to significant distortions of competition* (Annex F, point 7);

3. *the supply of goods and services to official bodies responsible for the construction, setting out and maintenance of cemeteries, graves and monuments commemorating war dead* (Annex F, point 8);

4. in the case of taxable persons exercising, under Article 28 (3)-(c) of the Sixth Directive, the right to opt for taxation covered by paragraph 2 of Annex G to that Directive:

medical care provided by certain radiologists in the exercise of the medical and paramedical professions as defined by the Member State concerned (Annex G, ex point 2).

Article 2

When calculating the VAT own resources basis for 1981, the French Republic is hereby authorized, pursuant to the second indent of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, to use approximate estimates to calculate the basis for the following categories of transactions referred to in Annex F to the Sixth Directive:

1. *admission to sporting events* (Annex F, point 1);

2. *the supply of water by public authorities* (Annex F, point 12);

3. *in international passenger transport operations, the portion of the journey undertaken on national territory* (Annex F, ex point 17);

4. *supplies of recuperable material and fresh industrial waste* (Annex F, point 20);

5. *transactions concerning gold other than gold for industrial use* (Annex F, point 26);

6. *the services of travel agents referred to in Article 26 of the Sixth Directive, and those of travel agents acting in the name and on account of the traveller, for journeys within the Community* (Annex F, point 27).

Article 3

This Decision is addressed to the French Republic.

Done at Brussels, 6 October 1982.

For the Commission

Christopher TUGENDHAT

Vice-President

No L 320/20 Official Journal of the European Communities 17. 11. 82

COMMISSION DECISION

of 6 October 1982

concerning requests for authorization submitted by the Kingdom of Denmark pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax

(Only the Danish text is authentic)

(82/760/ECSC, EEC, Euratom)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (1),

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing, in respect of own resources accruing from value added tax, the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (2), and in particular the first subparagraph of Article 9 (3) and Article 13 (2) thereof,

Having regard to Commission Decision 80/384/EEC, Euratom, ECSC of 17 March 1980 concerning requests for authorization submitted by the Kingdom of Denmark pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax (3),

Having regard to Commission Decision 81/1017/Euratom, ECSC, EEC of 18 November 1981 extending, among others, the Decision relating to requests for authorization submitted by the Kingdom of Denmark (80/384/EEC, Euratom, ECSC) concerning own resources accruing from value added tax (4),

Having regard to the request for amendment of Decision 80/384/EEC, Euratom, ECSC, presented for 1981 by the Kingdom of Denmark pursuant to the second subparagraph of Article 11 (1) of Regulation (EEC, Euratom, ECSC) No 2892/77,

Whereas the figures used by the Danish authorities to establish the 1979 and 1980 basis for VAT resources relating to the safeguard and management of shares, referred to in point 15 of Annex F to the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (5), are not appropriate figures but approximate figures, and Denmark has therefore had to apply for authorization to make the calculations accordingly;

Whereas, in the foregoing case, Denmark should be authorized, pursuant to the second indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, to use approximate estimates when calculating the VAT own resources basis for 1981;

Whereas earlier authorizations given to Denmark for 1979 and 1980 should also be extended for 1981;

Whereas during the early years of the implementation of the Sixth Directive authorizations should be granted annually;

Whereas the Advisory Committee on Own Resources has approved the report recording the opinions of its members on this Decision,

HAS ADOPTED THIS DECISION:

Article 1

For the purpose of calculating the VAT own resources basis for the financial year 1981, the Kingdom of Denmark is hereby authorized, pursuant to the first indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, not to take into account the following categories of transaction referred to in Annexes F and G to the Sixth Directive:

(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No L 336, 27. 12. 1977, p. 8.
(3) OJ No L 94, 14. 4. 1980, p. 42.
(4) OJ No L 367, 23. 12. 1981, p. 33.
(5) OJ No L 145, 13. 6. 1977, p. 1.

1. *services supplied by authors, artists, performers, lawyers and other members of the liberal professions, other than the medical and paramedical professions, in so far as these are not the services specified in Annex B to the Second Council Directive of 11 April 1967*(1):

   Services supplied by authors, artists and performers (Annex F, ex item 2);

2. *services supplied by undertakers and cremation services other than the supplies of goods related thereto* (Annex F, ex item 6);

3. *management of credit and credit guarantees by a person or body other than the one which granted the credit* (Annex F, item 13);

4. *for taxable persons entitled, under Article 28 (3) (c) of the Sixth Directive, to exercise an opinion in respect of taxation covered by the provisions of paragraph 2 of Annex G to that Directive:*

   Supplies of services by professional associations which have opted for the status of taxable persons to their members solely for their information activities (Annex G, ex item 2).

Article 2

For the purpose of calculating the VAT own resources basis for the financial year 1981, the Kingdom of Denmark is hereby authorized, pursuant to the second indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, to use approximate estimates in respect of the following transactions listed in Annex F to the Sixth Directive:

1. *transactions relating to the safekeeping and management of shares* (Annex F, ex item 15).

Article 3

For the purpose of calculating the VAT own resources basis for the financial year 1981, the Kingdom of Denmark is hereby authorized, pursuant to Article 5 (3) (b) of Regulation (EEC, Euratom, ECSC) No 2892/77, to apply to the information extracted from the returns made by newspaper publishers a corrective factor calculated on the basis of the appropriate data obtained from the statistics of the publishing industry.

Article 4

This Decision is addressed to the Kingdom of Denmark.

Done at Brussels, 6 October 1982.

For the Commission

Christopher TUGENDHAT

Vice-President

(1) OJ No L 71, 14. 4. 1967, p. 1303/67.

COMMISSION DECISION

of 6 October 1982

concerning requests for authorization submitted by the Kingdom of the Netherlands pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax

(Only the Dutch text is authentic)

(82/761/ECSC, EEC, Euratom)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (1),

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing, in respect of own resources accruing from value added tax, the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (2), and in particular the first subparagraph of Article 9 (3) and Article 13 (2),

Having regard to Commission Decision 80/822/EEC, Euratom, ECSC of 22 July 1980 concerning requests for authorization submitted by the Netherlands pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax (3),

Having regard to Commission Decision 81/440/Euratom, ECSC, EEC of 27 May 1981 amending Decision 80/822/EEC, Euratom, ECSC of 22 July 1980 concerning requests for authorization submitted by the Netherlands pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax (4),

Having regard to the request for amendment of Decision 81/440/Euratom, ECSC, EEC, made by the Netherlands for 1981 pursuant to the second subparagraph of Article 11 (1) of Regulation (EEC, Euratom, ECSC) No 2892/77,

Whereas, as from 1981, it is again possible for the Netherlands authorities to obtain appropriate figures for determining the basis for transactions by small businesses enjoying tax exemption;

Whereas the authorization to use approximate estimates for calculating the basis for such transactions should accordingly not be renewed in 1981;

Whereas the earlier authorization given to the Netherlands for 1979 and 1980 should otherwise be renewed for 1981;

Whereas in the early years of implementation of the Sixth Council Directive 77/388/EEC (5) authorization should be granted annually;

Whereas the Advisory Committee on Own Resources has approved the report in which are recorded the opinions of its members on this Decision,

HAS ADOPTED THIS DECISION:

Article 1

When calculating the VAT own resources basis for 1981, the Kingdom of the Netherlands is hereby authorized, pursuant to the first indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, not to take into account the following categories of transactions listed in Annexes E, F and G to the Sixth Directive:

1. *transactions referred to in Article 13 B (g) of the Sixth Directive:*

   acquisition of buildings or parts thereof and the ground on which they stand other than those referred to in Article 4 (3) (a), where these transactions are carried out by taxable persons entitled to deduction of input taxes for the buildings in question (Annex E, ex point 11);

(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No L 336, 27. 12. 1977, p. 8.
(3) OJ No L 239, 12. 9. 1980, p. 23.
(4) OJ No L 168, 25. 6. 1981, p. 24.
(5) OJ No L 145, 13. 6. 1977, p. 1.

2. *services supplied by authors, artists, performers, lawyers and other members of the liberal professions, other than the medical and paramedical professions, in so far as these are not services specified in Annex B to the Second Council Directive of 11 April 1967*(1);

   Services supplied by writers, composers, journalists and press photographers (Annex F, ex point 2);

3. *transactions carried out by blind persons or workshops for the blind provided these exemptions do not give rise to significant distortion of competition* (Annex F, point 7);

4. *services of experts in connection with insurance claim assessments* (Annex F, point 11);

5. *for taxable persons who exercise, under Article 28 (3) (c) of the Sixth Directive, the right of option for the taxation covered by paragraph 2 of Annex G to that Directive:*

   Services provided for their members by employers' associations which have opted to be regarded as taxable persons (Annex G, ex point 2).

Article 2

When calculating the VAT own resources basis for 1981, the Kingdom of the Netherlands is hereby authorized, pursuant to the second indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, to use approximate estimates to calculate the basis for the following transactions referred to in Article 24 (2) of the Sixth Directive and Annex F to that Directive:

1. *transactions carried out by small traders granted graduated tax relief under Article 24 (2) of the Sixth Directive;*

2. *Services supplied by undertakers and cremation services, together with goods related thereto* (Annex F, point 6);

3. *treatment of animals by veterinary surgeons* (Annex F, point 9);

4. *the transport by ferry-boat of passengers and goods accompanying passengers* (Annex F, ex point 17);

5. *services by travel agents referred to in Article 26 of the Sixth Directive, together with those provided by travel agents acting in the name and for the account of a passsenger for journeys within the Community* (Annex F, point 27).

Article 3

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 6 October 1982.

For the Commission

Christopher TUGENDHAT

Vice-President

(1) OJ No L 71, 14. 4. 1967, p. 1303/67.

No L 343/16 Official Journal of the European Communities 4. 12. 82

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 18 October 1982

relating to requests for authorization submitted by the Kingdom of Belgium, by the Italian Republic and by the United Kingdom, pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77, concerning own resources accruing from value added tax

(Only the Dutch, English, French and Italian texts are authentic)

(82/810/ECSC, EEC, Euratom)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from the Member States by the Communities' own resources (1),

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (2), and in particular the first subparagraph of Article 9 (3) and Article 13 (2) thereof,

Having regard to Commission Decision 80/31/EEC, Euratom, ECSC of 22 November 1979 concerning requests for authorization submitted by the Kingdom of Belgium pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax (3),

Having regard to Commission Decision 80/513/EEC, Euratom, ECSC of 2 May 1980 concerning requests for authorization submitted by the Italian Republic pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax (4),

Having regard to Commission Decision 80/774/EEC, Euratom, ECSC of 18 July 1980 concerning requests for authorization submitted by the United Kingdom pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax (5),

Having regard to the requests for extension of the authorization Decisions submitted by the Kingdom of Belgium, the Italian Republic and the United Kingdom,

Whereas, in the case of Belgium, the three-year period allowed by Article 28 (3) (c) of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added

(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No L 336, 27. 12. 1977, p. 8.
(3) OJ No L 13, 18. 1. 1980, p. 31.
(4) OJ No L 126, 21. 5. 1980, p. 17.
(5) OJ No L 222, 23. 8. 1980, p. 11.

tax : uniform basis of assessment (1) during which the Member States may grant the option of taxation under the conditions set out in Annex G expired on 31 December 1980 ;

Whereas, since transactions concerning gold other than gold for industrial use were made subject to VAT in Belgium from 1 September 1981, the authorization to use approximate estimates for such transactions was valid only until 31 August 1981 ;

Whereas in the early years of implementation of the Sixth Directive, authorization should be granted annually ;

Whereas the Advisory Committee on Own Resources has approved the report recording the opinions of its members on this Decision,

HAS ADOPTED THIS DECISION :

Article 1

The following Commission Decisions are hereby extended for the 1981 financial year :

— Decision 80/31/EEC, Euratom, ECSC concerning the Kingdom of Belgium with the exception of Articles 1 (3) and 2 (6), for which the authorization shall expire on 31 August 1981 ;

— Decision 80/513/EEC, Euratom, ECSC concerning the Italian Republic ;

— Decision 80/774/EEC, Euratom, ECSC concerning the United Kingdom.

Article 2

This Decision is addressed to the Kingdom of Belgium, the Italian Republic and the United Kingdom.

Done at Brussels, 18 October 1982.

For the Commission

Christopher TUGENDHAT

Vice-President

(1) OJ No L 145, 13. 6. 1977, p. 1.

No L 369/36 Official Journal of the European Communities 29. 12. 82

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 21 December 1982

amending Directive 72/464/EEC on taxes other than turnover taxes which affect the consumption of manufactured tobacco

(82/877/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas, under Directive 72/464/EEC (4), as last amended by Directive 82/2/EEC (5), the transition from one stage of harmonization to the next shall be decided on by the Council on a proposal from the Commission;

Whereas the second stage of harmonization, introduced by Council Decision 77/805/EEC (6), expires on 31 December 1982;

Whereas the special criteria applicable during the third stage are dealt with in a proposal for a Directive presented by the Commission (7);

Whereas the opinion of the Economic and Social Committee was delivered on 25 February 1981 (8) and the opinion of the European Parliament has not yet been delivered;

Whereas, in these circumstances, a sufficiently long extension of the second stage is again necessary to enable the European Parliament to deliver its opinion and to allow the Council to decide on the rules for the application of a third stage of harmonization,

HAS ADOPTED THIS DIRECTIVE:

Article 1

In Article 10a (1) of Directive 72/464/EEC, '31 December 1982' is hereby replaced by '31 December 1983'.

Article 2

This Directive is addressed to the Member States.

Done at Brussels, 21 December 1982.

For the Council

The President

O. MØLLER

(1) OJ No C 310, 27. 11. 1982, p. 5.
(2) Opinion delivered on 17 December 1982 (not yet published in the Official Journal).
(3) Opinion delivered on 15 December 1982 (not yet published in the Official Journal).
(4) OJ No L 303, 31. 12. 1972, p. 1.
(5) OJ No L 5, 9. 1. 1982, p. 11.
(6) OJ No L 338, 20. 12. 1977, p. 22.
(7) OJ No C 264, 11. 10. 1980, p. 6.
(8) OJ No C 138, 9. 6. 1981, p. 47.

31. 12. 82 Official Journal of the European Communities No L 373/1

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (ECSC, EEC, EURATOM) No 3550/82 of 28 December 1982

extending the term of validity of Regulation (EEC, Euratom, ECSC) No 2892/77 implementing, in respect of own resources accruing from value added tax, the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (1), and in particular Article 6 (2) thereof,

Having regard to the proposal from the Commission (2),

Having regard to the opinion of the European Parliament (3),

Having regard to the opinion of the Court of Auditors (4),

Whereas under Article 14 of Regulation (EEC, Euratom, ECSC) No 2892/77 (5) that Regulation shall apply from 1 January 1978 for a transitional period expiring on 31 December 1982;

Whereas, because of the delay in the application in the Member States of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (6), the Commission has not had the benefit, for levying VAT own resources and the detailed rules for its implementation, of the five-year period corresponding to the transitional period and laid down by the Council for establishing provisions relating to the definitive uniform system;

Whereas, to allow the Commission to draw up these measures, this transitional period should be extended to 31 December 1985 and the provisions of Regulation (EEC, Euratom, ECSC) No 2892/77 should remain in force for the time being,

HAS ADOPTED THIS REGULATION:

Article 1

Article 14 of Regulation (EEC, Euratom, ECSC) No 2892/77 shall be amended as follows:

(a) in the second subparagraph, '1982' shall be replaced by '1985';

(b) in the third paragraph, '1982' shall be replaced by '1985'.

Article 2

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities.*

It shall apply from 1 January 1983.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 28 December 1982.

For the Council

The President

O. MØLLER

(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No C 200, 4. 8. 1982, p. 12.
(3) Opinion delivered on 16 December 1982 (not yet published in the Official Journal).
(4) Opinion delivered on 16 November 1982 (not yet published in the Official Journal).
(5) OJ No L 336, 27. 12. 1977, p. 8.
(6) OJ No L 145, 13. 6. 1977, p. 1.

31. 12. 82 Official Journal of the European Communities No L 376/1

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 3599/82
of 21 December 1982
on temporary importation arrangements

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 28, 43 and 235 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas the Community is based upon a customs union;

Whereas the establishment of that customs union is governed, in the main, by the provisions of Title I, Chapter I, of the second part of the Treaty; whereas that chapter contains a body of precise rules concerning in particular the elimination of customs duties between the Member States and the setting up and progressive introduction of the Common Customs Tariff, as well as the alteration or autonomous suspension thereof;

Whereas, except in particular circumstances established in accordance with the provisions of the Treaty, the duties under the Common Customs Tariff are applicable to all goods imported into the Community; whereas this is also true of agricultural levies and any other import duty;

Whereas, however, in a certain number of cases such charges are not justified for goods temporarily imported into the Community and ultimately intended for re-exportation without having been processed;

Whereas without prejudice to prohibitions or quantitative restrictions on imports justified under the Treaty or under provisions adopted by virtue of that Treaty, this should be the case for goods temporarily imported for a specific purpose, such as professional press, radio-broadcasting, television, cinematographic and theatre equipment, goods intended for display or use at exhibitions or events, educational, scientific and cultural material, and in all other cases where temporary importation is justified;

Whereas temporary importation allowing the use without payment of import duties of certain imported goods which do not satisfy the conditions of Article 9 (2) of the Treaty, where such goods are intended for re-export in the same state, is provided for in the law of the majority of the Member States; whereas such arrrangements are also the subject of several multilateral international conventions to which some or all the Member States are contracting parties; whereas application of these conventions within the Community, although advisable, presupposes the introduction of Community rules to ensure that they are applied uniformally as required under the customs union;

Whereas it is advisable to ensure that the importation of goods under the temporary importation arrangements does not put producers of similar goods or the users of products satisfying the conditions of Article 9 (2) of the Treaty in a difficult position; whereas, in certain circumstances, the absence of import duties could be such as to disturb the conditions of competition between users of goods placed under the temporary importation arrangements and the users of similar goods taken from the Community market; whereas, to this end, it is important to place time limits upon the use of goods benefiting under those arrangements and to provide in certain cases that part of the import duties be charged;

Whereas the correct administration of the arrangements requires administrative and technical surveillance, in particular to ensure that the goods are not used for purposes other than those which qualify them for the said arrangements, or that the duty applicable is charged in cases where temporarily imported goods are not re-exported; whereas, to that end, it is advisable to provide that the placing of goods under the arrangements be subject to authorizations granted by the competent authorities of the Member State where the goods are so placed and which lay down the conditions governing the stay of the said goods;

(1) OJ No C 172, 19. 7. 1978, p. 2.
(2) OJ No C 296, 11. 12. 1978, p. 52.
(3) OJ No C 133, 28. 5. 1979, p. 16.

Whereas temporary importation arrangements have to cover a wide variety of situations, and must accordingly be so adapted that on each occasion Community interests are adequately protected both from the economic and from the tariff point of view; whereas provision should therefore be made for granting total or partial relief from import duties depending on the uses to which goods qualifying for treatment under the arrangements are to be put;

Whereas, in order to ensure uniform application of this Regulation, provision should be made for a Community procedure whereby the relevant implementing provisions may be adopted within a suitable time; whereas to this end the Committee on Inward Processing set up by Article 26 of Council Directive 69/73/EEC of 4 March 1969 on the harmonization of provisions laid down by law, regulation, or administrative action in respect of inward processing (1), as last amended by Directive 76/119/EEC (2), should be entrusted with the task of organizing close and effective cooperation in this field between the Member States and the Commission,

HAS ADOPTED THIS REGULATION:

TITLE I

GENERAL

Article 1

1. Under temporary importation arrangements, goods which are intended to remain temporarily in the customs territory of the Community and to be re-exported may be imported, in accordance with the procedures and conditions laid down by this Regulation, with total or partial relief from import duties.

Temporary importation of means of transport shall be excluded from the scope of this Regulation.

2. For the purposes of this Regulation 'import duties' means customs duties and charges having equivalent effect, as well as agricultural levies and other import charges laid down within the framework of the common agricultural policy or of specific arrangements applicable under Article 235 of the Treaty to certain goods which result from the processing of agricultural products.

Article 2

1. The competent authorities of the Member State in which application is made for goods to become subject to the temporary importation arrangements shall, using an authorization procedure, grant the benefit of the said arrangements to any natural or legal persons who, on their own responsibility, use the goods in question or cause them to be used.

2. They shall take all measures which they consider necessary to ensure that the goods can be identified and that the use to which they are put can be verified.

3. They shall withhold the benefit of the arrangements if it is considered impossible to identify the goods in question or to verify their use.

They may likewise withhold such benefit from persons who do not provide all the guarantees considered necessary, and in particular from persons who have previously made improper use of the temporary importation arrangements.

Article 3

1. With the exception of the cases to be determined in accordance with the procedure laid down in Article 33, the competent authorities shall, at the time when the goods are made subject to temporary importation arrangements, record the details of the taxation applicable to them and shall determine the amount of the security or the form of guarantee to be provided.

2. Until the exceptions referred to in paragraph 1 have been established the provisions in force in the Member State shall continue to apply.

Article 4

1. The competent authorities shall fix the period during which the goods may remain in the territory under the temporary importation arrangements by reference to the authorized use. Without prejudice to the special periods laid down in Articles 10, 11, 12, 14, 16 and 17, the maximum duration of this period shall be 24 months.

2. However, where exceptional circumstances so justify, the competent authorities may, at the request of the holder of the authorization extend within reasonable limits and subject to the conditions laid down by this Regulation the periods referred to in paragraph 1 in order to permit the authorized use.

Article 5

1. The competent authorities of the Member State in which the goods have been made subject to the temporary importation arrangements shall authorize the transfer of the benefit thereof to any other person, at that person's request, where he satisfies the conditions laid down by this Regulation and assumes the obligations incumbent on the holder of the original authorization, particularly those arising from the fixing of the period during which the goods remain under such arrangements.

(1) OJ No L 58, 8. 3. 1969, p. 1.
(2) OJ No L 24, 30. 1. 1976, p. 58.

2. Where goods covered by Title III are transferred the import duties due under the arrangements for partial relief shall be charged to the former holder.

3. Transfer of the benefit of these arrangements shall not mean that the same relief arrangements must be applied for each of the periods of use to be taken into consideration.

Article 6

Persons benefiting from temporary importation arrangements shall be required to submit to any surveillance and inspection measures prescribed by the competent authorities.

Such authorities may revoke an authorization if they find that a person benefiting from the arrangements has not complied with one of the conditions under which the arrangements were granted.

TITLE II

TEMPORARY IMPORTATION ON A TOTAL RELIEF BASIS

Chapter 1

Professional equipment

Article 7

1. The benefit of temporary importation arrangements with total relief from import duties shall be granted in respect of professional equipment.

2. 'Professional equipment' means the equipment and accessories needed for the exercise of his trade or profession by a natural or legal person established outside the customs territory of the Community, who is in the Community to perform a particular job of work.

The list of goods considered as 'professional equipment' for the purposes of this Regulation shall be drawn up and amended in accordance with the procedure laid down in Article 33.

3. The temporary importation arrangements referred to in paragraph 1 shall be granted provided that the professional equipment is:

(a) owned by a natural or legal person established outside the customs territory of the Community;

(b) imported by a natural or legal person established outside the said territory;

(c) to be used exclusively by the person entering the said territory or under his supervision.

However, the condition referred to in (c) shall not apply to cinematographic equipment imported for the purpose of producing films under a co-production contract concluded with a person established in the customs territory of the Community.

In the case of joint radio or television programme productions, professional equipment may be the subject of a hire or similar contract to which a person established in the customs territory of the Community is party.

Article 8

Spare parts subsequently imported for the repair of professional equipment which has been imported temporarily shall benefit from the advantages granted under the said arrangements in the same way as the equipment itself.

Chapter 2

Goods for display or use at an exhibition, fair, symposium or similar event

Article 9

1. The benefit of temporary importation arrangements with total relief from import duties shall be granted for:

(a) goods intended for display or to be subject of a demonstration at an event;

(b) goods intended for use at an event for the purpose of presenting imported products, such as:

— goods necessary for demonstration of the imported machines or apparatus on exhibition,

— equipment, including electrical fittings, used for constructing and decorating the temporary stands of a natural or legal person established outside the Community,

— advertising material and demonstration and other equipment intended for use in publicizing the imported goods on exhibition, such as sound recordings, films and transparencies, together with the accessories required in connection with their use;

(c) equipment, including interpreting installations, sound recording apparatus and educational, scientific or cultural films, intended for use at international meetings, conferences and symposia;

(d) live animals intended for exhibition at, or participation in, an event;

(e) products obtained during an event from goods, machinery, apparatus or animals imported temporarily.

2. An 'event' means:

(a) a trade, industrial, agricultural or craft exhibition, fair, or similar show or display;

(b) an exhibition or meeting which is primarily organized for a charitable purpose;

(c) an exhibition or meeting which is primarily organized to promote any branch of learning, art, craft, sport or scientific, technical, educational, cultural, trade union or tourist activity, or to promote friendship between peoples or to promote religious knowledge or worship;

(d) a meeting of representatives of international organizations or international groups of organizations;

(e) a representative meeting of an official or commemorative character;

except exhibitions organized for private purposes in shops or business premises with a view to sale of the goods imported.

Chapter 3

Teaching aids and scientific equipment

Article 10

1. The benefit of temporary importation arrangements with total relief from import duties shall be granted for:

(a) teaching aids;

(b) spare parts and accessories for such aids;

(c) tools especially designed for the maintenance, checking, calibration or repair of such aids.

2. 'Teaching aid' means any aid intended for the exclusive purpose of teaching or vocational training, and in particular models, instruments, apparatus, machines and accessories thereof.

The list of goods considered as teaching aids for the purposes of this Regulation shall be drawn up and amended in accordance with the procedure laid down in Article 33.

3. The temporary importation arrangements referred to in paragraph 1 shall be granted provided that the teaching aids, spare parts, accessories or tools:

(a) are imported by approved establishments and are used under the supervision and responsibility of such establishments;

(b) are used for non-commercial purposes;

(c) are imported in reasonable quantities, having regard to their intended purpose;

(d) remain throughout their stay in the customs territory of the Community the property of a natural or legal person who is established outside the Community.

4. The period during which such teaching aids may remain under temporary importation arrangements may not exceed six months.

Article 11

1. The benefit of temporary importation arrangements with total relief from import duties shall be granted for:

(a) scientific equipment and accessories;

(b) spare parts for such equipment;

(c) tools specially designed for the maintenance, checking, calibration or repair of scientific equipment used in the customs territory of the Community exclusively for purposes of scientific research or teaching.

2. 'Scientific' equipment' means instruments, apparatus, machines and accessories thereof used for the purpose of scientific research or teaching.

3. The temporary importation arrangements referred to in paragraph 1 shall be granted provided that the scientific equipment, accessories, spare parts and tools:

(a) are imported by approved establishments and are used under the supervision and responsibility of such establishments;

(b) are used for non-commercial purposes;

(c) are imported in reasonable numbers having regard to their intended purpose;

(d) remain throughout their stay in the customs territory of the Community the property of a natural or legal person who is established outside the Community.

4. The period during which such scientific equipment may remain under temporary importation arrangements may not exceed six months.

Chapter 4

Medical, surgical and laboratory equipment

Article 12

1. The benefit of temporary importation arrangements with total relief from import duties shall be granted for medical, surgical and laboratory equipment intended for hospitals and other medical institutions.

2. The temporary importation arrangements referred to in paragraph 1 shall be granted provided that the said equipment:

(a) has been dispatched on an occasional basis, on loan and free of charge;

(b) is intended for diagnostic and therapeutic purposes.

3. The period during which medical, surgical and laboratory equipment may remain under temporary importation arrangements may not exceed six months.

Chapter 5

Materials for use in countering the effects of disasters

Article 13

1. The benefit of temporary importation arrangements with total relief from import duties shall be granted in the case of materials for use in connection with measures taken to counter the effects of disasters affecting the customs territory of the Community.

2. The temporary importation arrangements referred to in paragraph 1 shall be granted provided that such materials:

— have been imported on loan and free of charge,

— are intended for State bodies or bodies approved by the competent authorities.

Chapter 6

Packings

Article 14

1. The benefit of temporary importation arrangements with total relief from import duties shall be granted for packings.

2. 'Packings' means:

(a) holders used, or to be used, as external or internal coverings for goods;

(b) holders on which goods are, or are to be, rolled, wound or attached,

but excluding packing materials such as straw, paper, glass wool and shavings when imported in bulk.

3. The temporary importation arrangements referred to in paragraph 1 shall be granted provided that:

(a) if the packings are imported filled, they are declared as being for re-exportation empty or filled;

(b) if the packings are imported empty, they are declared as being for re-exportation filled.

4. Packings admitted under temporary arrangements cannot be used, even as an exception, between two points located within the customs territory of the Community, except with a view to the export of goods outside that territory. In the case of packings imported filled, this ban shall apply only from the time that their contents are emptied.

5. The period during which such packings may remain under temporary importation arrangements may not exceed six months where they are imported filled or three months where they are imported empty.

Chapter 7

Other cases of temporary importation on a total relief basis

Article 15

The benefit of temporary importation arrangements with total relief from import duties shall be granted for:

(a) moulds, dies, blocks, drawings, sketches and other similar articles intended for a natural or legal person established in the customs territory of the Community, where at least 75 % of the production resulting from their use is exported from that territory;

(b) measuring, checking and testing instruments and other similar articles intended for a natural or legal person established in the customs territory of the Community for use in a manufacturing process, where at least 75 % of the production resulting from their use is exported from that territory;

(c) goods of any kind which are to be subjected to tests, experiments or demonstrations, including the tests and experiments required for type-approval procedures, but excluding any tests, experiments or demonstrations constituting a gainful activity;

(d) goods of any kind to be used to carry out tests, experiments or demonstrations, but excluding any tests, experiments or demonstrations constituting a gainful activity;

(e) samples which are representative of the particular category of goods and which are intended for demonstration purposes with a view to obtaining orders for similar goods;

(f) special tools and instruments made available free of charge to a natural or legal person established in the customs territory of the Community for use in the manufacture of goods which are to be exported in their entirety, on condition that such special tools and instruments remain the property of the consignee of the said goods.

Article 16

1. The benefit of temporary importation arrangements with total relief from import duties shall be granted for:

(a) second hand goods imported with a view to their sale by auction;

(b) goods imported under a contract of sale, which are to be subjected to satisfactory acceptance tests;

(c) works of art imported for the purposes of exhibition, with a view to possible sale;

(d) consignments on approval of made-up articles of fur, precious stones, carpets and articles of jewellery provided that their particular characteristics prevent their being imported as samples.

2. The period during which the above goods may remain under temporary importation arrangements may not exceed six months in the case of (a), (b) and (c) and four weeks in that of (d).

Article 17

1. The benefit of temporary importation arrangements with total relief from import duties shall be granted for replacement means of production made temporarily available free of charge to the importer on the initiative of the supplier of similar means of production to be subsequently imported for release into free circulation or for means of production re-installed after repair.

2. The period during which these replacement means of production may remain under temporary importation arrangements may not exceed six months.

Article 18

The benefit of temporary importation arrangements with total relief from import duties shall be granted for:

(a) positive cinematograph films, printed and developed, intended for projection prior to commercial use;

(b) films, magnetic tapes and wires which are intended to be provided with a sound track, dubbed or copied;

(c) films demonstrating the nature of products or the operation of foreign equipment, provided that they are not intended for public showing for charge;

(d) carrier material for recorded sound and data-processing, including punched cards, made available free of charge to a person whether or not established in the customs territory of the Community.

Article 19

1. The benefit of temporary importation arrangements with total relief from import duties shall be granted in respect of the personal effects which travellers are carrying on their person or in their personal luggage for the duration of their stay in the customs territory of the Community.

2. 'Personal effects' means any clothing and other new or used articles intended for the personal use of the traveller.

Article 20

The benefit of temporary importation arrangements with total relief from import duties shall be granted for:

(a) live animals of any species imported for dressage, training or breeding purposes or in order to be given veterinary treatment;

(b) live animals of any species imported for transhumance or grazing purposes;

(c) draught animals and equipment belonging to natural or legal persons established outside but in close proximity to the customs territory of the Community provided that they are imported by such persons for working land located inside the customs territory of the Community, involving the performance of agricultural work or the unloading or transport of timber;

(d) tourist publicity material. The list of goods to be considered as tourist publicity material shall be drawn up and amended in accordance with the procedure laid down in Article 33.

Article 21

1. The benefit of temporary importation arrangements with total relief from import duties shall be granted for welfare material for seafarers.

2. The following definitions shall apply:

— 'welfare material' means material intended for cultural, educational, recreational, religious or sporting activities by seafarers,

— 'seafarers' means all persons transported on board a vessel and responsible for tasks relating to the operation or servicing of the vessel at sea.

3. The list of goods to be considered as welfare material for seafarers shall be drawn up and amended in accordance with the procedure laid down in Article 33.

4. The temporary importation arrangements referred to in paragraph 1 shall be granted provided that the material is:

(a) disembarked from a vessel for temporary use on land by the crew for a period not exceeding that of the vessel's stay in port;

(b) imported for temporary use in cultural or social establishments for a period not exceeding six months. 'Cultural or social establishments' means hostels, clubs and recreational premises for seafarers, managed by either official bodies or religious or other non-profit-making organizations, and also places of worship where regular services are held for seafarers.

Article 22

The benefit of temporary importation arrangements with total relief from import duties shall be granted for the various equipment used, under the supervision and responsibility of a public authority, for the building, repair or maintenance of infrastructure of general importance in border zones.

Article 23

The benefit of temporary importation arrangements with total relief from import duties shall be granted for goods temporarily imported into the customs territory of the Community in particular circumstances which have no economic effect.

TITLE III

TEMPORARY IMPORTATION ON A PARTIAL RELIEF BASIS

Article 24

1. Without prejudice to the provisions of paragraph 2, the benefit of temporary importation arrangements with partial relief from import duties shall be granted in accordance with the rules laid down in Articles 25 and 26 for goods which, while remaining the property of a natural or legal person established outside the customs territory of the Community, are not covered by Title II or which are covered by Title II but do not fulfil all the conditions provided for therein for the granting of temporary importation on a total relief basis.

2. The list of goods to be excluded from the possibility of benefiting from temporary importation arrangements with partial relief from import duties shall be drawn up in accordance with the procedure laid down in Article 33.

Article 25

The amount of import duties due in respect of goods placed under temporary importation arrangements with partial relief from import duties shall be fixed at 3 %, for every month or fraction of a month during which the goods have been placed under temporary importation arrangements, with partial relief, of the total duties which would have been charged for the said goods had they been released for free circulation as at the date on which they were placed under the temporary importation arrangements.

Article 26

1. The amount of import duties due under partial relief shall be levied by the competent authorities when the temporary importation arrangements are discharged under the rules laid down in Title IV of this Regulation.

2. The amount of import duties to be charged shall in no case exceed that which would have been charged if the goods concerned had been released for free circulation as at the date on which they were placed under the temporary importation arrangements.

3. The said amount shall be duly recorded by the competent authorities using the administrative methods set up for that purpose.

4. Where the goods placed under temporary importation arrangements with partial relief from import duties are used successively by several persons pursuant to Article 5, any fraction of a month of use shall be deemed to be a whole month, and that month shall no longer be taken into account when calculating the amount for which the next user is liable.

Article 27

1. Any Member State may decide to grant total instead of partial relief on goods imported into its territory on a occasional basis for a period not exceeding three months.

2. Details of the goods imported under this Article shall be reported to the Commission every six months. The Commission shall communicate these details to the Member States.

3. Following examination of the reported cases by the Committee on Inward Processing referred to in Article 32, provisions shall be adopted in accordance with the procedure laid down in Article 33 with a view to excluding from the application of paragraph 1 certain operations where it is found that these operations adversely affect the conditions of competition in the Community or are contrary to the interests of commercial operators established there.

TITLE IV

FINAL DISCHARGE OF THE ARRANGEMENTS

Article 28

1. The temporary importation arrangements shall be finally discharged when, in accordance with the conditions laid down by the authorization, the goods subject to the said arrangements are exported outside the customs territory of the Community or placed, with a view to their subsequent exportation, under:

— warehouse arrangements,

— free zone arrangements, or

— external Community transit arrangements, or one of the sets of international transport arrangements referred to in Article 7 (1) of Council Regulation (EEC) No 222/77 of 13 December 1976 on Community transit (1), provided that Community law allows the use of such arrangements.

(1) OJ No L 38, 9. 2. 1977, p. 1.

2. The competent authorities may, in exceptional circumstances and in the cases referred to in Articles 9 and 16, authorize the release for free circulation or the destruction under customs control of goods placed under temporary importation arrangements, either directly or after they have been placed under one of the procedures referred to in paragraph 1.

3. Paragraphs 1 and 2 shall also apply, without prejudice to the implementation of provisions in force in respect of infringements of customs legislation, where an authorization has been revoked under Article 6.

4. The placing under another customs procedure of goods already subject to temporary importation arrangements with partial relief shall be conditional on the payment of any amount due under Articles 25 and 26.

Article 29

1. By way of derogation from Article 28, the temporary importation arrangements shall be deemed to have been finally discharged when goods imported with the benefit of the provisions of Article 9 have been consumed, destroyed or distributed free of charge to the public at an event.

The nature of these goods and products referred to in Article 9 (1) (e) must however correspond to the nature of the event, the numer of visitors and the extent of the exhibitors' participation therein.

2. The provisions of paragraph 1 above shall not apply to alcoholic beverages, tobacco and fuels.

Article 30

1. Without prejudice to the implementation of provisions in respect of infringements of customs legislation and provisions on exemptions, import duties shall be charged on goods under temporary importation arrangements which are released for free circulation or in other cases in which a customs debt is incurred, in accordance with the measures taken by Member States to comply with the provisions of Council Directive 79/623/EEC of 25 June 1979 on the harmonization of provisions laid down by law, regulation or administrative action relating to customs debt (1). Such duties shall be charged on the basis of the details of taxation determined in accordance with the provisions of Article 3 of this Regulation irrespective of whether the goods are released for free circulation directly or after having been placed under one of the customs arrangements referred to in Article 28 (1). However, in the case of goods referred to in Articles 9 and 16 (1) (a), (c) and (d), the moment to be taken into consideration for the determination of the amount of the customs debt shall be that referred to in the provisions adopted by Member States to comply with Article 3 of Directive 79/623/EEC.

2. Release for free circulation of goods placed under temporary importation arrangements with partial relief shall be carried out after deduction of any amount paid under Articles 25 and 26.

Article 31

1. Where goods which are recoverable in the form of waste products resulting from duly authorized destruction are not re-exported, their release for free circulation may, notwithstanding the rules laid down in Article 30, be effected on the basis of the import duty and other particulars material to the calculation of duty applicable to them as recognized or accepted by the customs authority on the date of destruction.

2. In the case of goods imported on a partial relief basis, paragraph 1 shall apply only if the importer has already paid the amount of import duties determined in accordance with Article 25 in respect of the period during which the goods have remained under temporary importation arrangements with partial relief.

3. The deterioration or irretrievable loss of goods as a result of the actual nature of the goods or of unforeseeable circumstances or *force majeure*, shall be treated as authorized destruction.

For the purposes of the previous subparagraph, goods shall be irretrievably lost if, following their disappearance, they are incapable of being used by anyone.

TITLE V

FINAL PROVISIONS

Article 32

The Committee for Customs Processing Arrangements set up by Article 26 of Directive 69/73/EEC may examine any question concerning the application of this Regulation raised by its chairman, either on his own initiative or at the request of a representative of one of the Member States.

Article 33

The provisions necessary for implementation of this Regulation, with the exception of Articles 1, 8, 15, 17, 18, 19, 25, 26, 30, 32, 33 and 34, shall be adopted in accordance with the procedure laid down in Article 28 of Directive 69/73/EEC.

(1) OJ No L 179, 17. 7. 1979, p. 31.

Article 34

This Regulation shall enter into force on 1 January 1983. It shall be implemented one year after the adoption of the implementing provisions which will be adopted for Articles 7 (2), 10 (2), 20 (d), 21 (3) and 24 (2), in accordance with the procedure stated in Article 33, and not before 1 July 1984.

Authorizations granted pursuant to national provisions before this Regulation is implemented shall be revoked no later than two years after its entry into force if they cannot be retained on the basis of this Regulation.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 21 December 1982.

For the Council

The President

O. MØLLER

No L 12/48 Official Journal of the European Communities 14. 1. 83

COUNCIL DIRECTIVE

of 30 December 1982

on a derogation accorded to Denmark relating to the rules governing turnover tax and excise duty applicable in international travel

(83/2/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof,

Having regard to the proposal from the Commission,

Whereas, pursuant to Article 133 and to Part V 1 (a) of Annex VII to the 1972 Act of Accession, Denmark was granted a derogation regarding the application of certain provisions of Council Directive 69/169/EEC of 28 May 1969 on the harmonization of provisions laid down by law, regulation or administrative action relating to exemption from turnover tax and excise duty on imports in international travel (1), as last amended by Directive 82/443/EEC (2); whereas this derogation was last extended by Directive 77/800/EEC (3) adopted pursuant to Part V 1 (c) of Annex VII to the said Act of Accession;

Whereas the Danish Government has requested a further period to apply the harmonized rules stemming from Directive 69/169/EEC;

Whereas the tax system at present applied in Denmark does not yet allow the full application of such rules in Denmark without the risk of serious economic consequences;

Whereas, therefore, Denmark should be authorized to maintain provisionally the exceptional arrangements which it has enjoyed hitherto; whereas, however, in order to facilitate adaptation, provision should be made for the progressive adaptation of these arrangements to the harmonized Community rules,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. Notwithstanding Directive 69/169/EEC, Denmark is hereby authorized, in respect of exemption for imports of tobacco products, alcoholic beverages (distilled beverages and spirits of an alcoholic strength exceeding 22 % vol) beer to apply the following quantitative limits, where such goods are imported by travellers resident in Denmark, after a stay in another country:

— until 31 December 1985, when the stay is less than 48 hours, and

— from 1 January 1986 to 31 December 1987, when the stay is less than 24 hours:

	Until 31 December 1983	From 1 January to 31 December 1984	From 1 January to 31 December 1985	From 1 January to 31 December 1986	From 1 January to 31 December 1987
Cigarettes	60	60	140	200	240
or					
Cigarillos (cigars of a maximum weight of 3 grams)	40	50	60	—	—
or					
Cigars	30	40	50	—	—
or					
Smoking tobacco where the tobacco particles have a width of at least 1·5 mm	200 grams	250 grams	300 grams	—	—
or					
Other smoking tobacco (fine cut)	100 grams	100 grams	200 grams	250 grams	300 grams
Distilled beverages and spirits of an alcoholic strength exceeding 22 % vol	Nil	Nil	0·35 litre	0·35 litre	0·7 litre
Beer	2 litres	4 litres	6 litres	—	—

(1) OJ No L 133, 4. 6. 1969, p. 6.
(2) OJ No L 206, 14. 7. 1982, p. 35.
(3) OJ No L 336, 27. 12. 1977, p. 21.

2. Where the traveller is returning from a stay in a third country, the allowances may in no circumstances exceed those laid down in column I of Article 4 (1) of Directive 69/169/EEC.

Article 2

Denmark shall communicate to the Commission the texts of the measures which it adopts in order to comply with this Directive.

Article 3

This Directive is addressed to the Kingdom of Denmark.

Done at Brussels, 30 December 1982.

For the Council

The President

O. MØLLER

No L 15/16 Official Journal of the European Communities 19. 1. 83

II

(Acts whose publication is not obligatory)

COUNCIL

Application of Article 30 of the Sixth Council Directive of 17 May 1977 on value added tax (1)

(Authorization of a derogation in the context of a draft Agreement between Italy and Switzerland)

(83/7/EEC)

By letter dated 23 July 1982 the Italian Government informed the Commission, pursuant to the above provisions, of its intention of introducing into its national law a derogation from the Sixth Directive whereby, in the context of a draft Supplementary Agreement to the Convention between Italy and Switzerland on the protection of common waters against pollution, signed in Rome on 20 April 1972, importation of equipment, fuel and consumable materials used in the event of emergency action to combat accidental pollution of common waters would be exempt from VAT.

The Commission informed the other Member States of the Italian Government's intention by letter dated 25 August 1982.

In accordance with Article 30 of the Sixth Directive the Council decision authorizing this derogation shall be deemed to have been adopted if, within two months of the other Member States being informed as laid down in the previous paragraph, the matter has not been raised before the Council.

Since the matter was not raised within that period the Council's decision is deemed to have been adopted as from 26 October 1982.

(1) OJ No L 145, 13. 6. 1977, p. 1.

Application of Article 30 of the Sixth Council Directive of 17 May 1977 on value added tax (1)

(Authorization of a derogation in the context of a draft Convention between Italy and Switzerland

(83/8/EEC)

By letter dated 23 July 1982 the Italian Government informed the Commission, pursuant to the above provisions, of its intention of introducing into its national law a derogation from the Sixth Directive whereby, in the context of a draft Convention between Italy and Austria on maintenance of the frontier between the two countries which would replace the Convention signed in Vienna on 22 February 1929, final importation of materials used in the maintenance work and temporary importation of motor vehicles, tools and equipment for the work would be exempt from VAT.

The Commission informed the other Member States of the Italian Government's intention by letter dated 23 September 1982.

In accordance with Article 30 of the Sixth Directive the Council decision authorizing this derogation shall be deemed to have been adopted if, within two months of the other Member States being informed as laid down in the previous paragraph, the matter has not been raised before the Council.

Since the matter was not raised within that period the Council's decision is deemed to have been adopted as from 24 November 1982.

(1) OJ No L 145, 13. 6. 1977, p. 1.

No L 91/28 Official Journal of the European Communities 9. 4. 83

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 28 March 1983

amending Directive 68/297/EEC on the standardization of provisions regarding the duty-free admission of fuel contained in the fuel tanks of commercial motor vehicles

(83/127/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 75 and 99 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

Having regard to the opinion of the Economic and Social Committee (2),

Whereas Directive 68/297/EEC (3) laid down the minimum quantity of fuel contained in the fuel tanks of commercial motor vehicles which must be admitted duty-free at the internal frontiers of the Community;

Whereas the said quantity of fuel, in order to facilitate passage at these frontiers, should be increased,

HAS ADOPTED THIS DIRECTIVE:

Article 1

In Article 3 of Directive 68/297/EEC, paragraph 1 shall be replaced by the following:

'1. With effect from 1 July 1984 at the latest, Member States shall admit duty-free a quantity of 200 litres of motor fuel.'

Article 2

This Directive is addressed to the Member States.

Done at Brussels, 28 March 1983.

For the Council

The President

J. ERTL

(1) OJ No C 155, 9. 12. 1974, p. 77.
(2) OJ No C 142, 16. 11. 1974, p. 11.
(3) OJ No L 175, 23. 7. 1968, p. 15.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 11 March 1983

concerning the Kingdom of Belgium pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax

(Only the Dutch and French texts are authentic)

(83/140/EEC, Euratom, ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (1),

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (2), and in particular the first subparagraph of Article 9 (3), the second subparagraph of Article 11 (1) and Article 13 (2) thereof,

Whereas the Commission, pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77, adopted, for 1979, Decision 80/31/EEC, Euratom, ECSC (3), for 1980, Decision 81/1017/Euratom, ECSC, EEC (4) and, for 1981, Decision 82/810/ECSC, EEC, Euratom (5);

Whereas the Kingdom of Belgium has requested the extension of the earlier Decisions; whereas it does not have appropriate data for 1982 but only approximate estimates on which to calculate the base relating to the supplies of land referred to in Article 4 (3) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (6), hereinafter called 'the Sixth Directive', and should therefore be authorized to use approximate estimates for calculating the VAT-own-resources base;

Whereas, for the early years of implementation of the Sixth Directive, authorizations should be granted annually;

Whereas the Advisory Committee on Own Resources has approved the report recording the opinions of its members on this Decision,

(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No L 336, 27. 12. 1977, p. 8.
(3) OJ No L 13, 18. 1. 1980, p. 31.
(4) OJ No L 367, 23. 12. 1981, p. 33.
(5) OJ No L 343, 4. 12. 1982, p. 16.
(6) OJ No L 145, 13. 6. 1977, p. 1.

HAS ADOPTED THIS DECISION:

Article 1

For the purpose of calculating the VAT-own-resources base for 1982, the Kingdom of Belgium is authorized, pursuant to the first indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, not to take into account the following categories of transactions referred to in Annexes E and F to the Sixth Directive:

1. Transactions referred to in Article 13 (A) (1) (f) of the Sixth Directive other than those of groups of a medical or paramedical nature:

   Services supplied by independent groups of persons whose activities are exempt from or are not subject to value added tax, for the purpose of rendering their members the services directly necessary for the exercise of their activity, where these groups merely claim from their members exact reimbursement of their share of the joint expenses, provided that such exemption is not likely to produce distortion of competition (Annex E, ex point 3).

2. Services supplied by authors, artists, performers, in so far as these are not services specified in Annex B to Second Council Directive 67/228/EEC (1):

   Services rendered to conference organizers by lecturers, services rendered to show and concert organizers, to publishers of records and other sound-recording media and to makers of films and other image-recording media by actors, conductors, musicians and other artists in the context of theatrical, choreographical, cinematographical or musical productions or circus, music-hall or artistic cabaret performances, and the services rendered to organizers of sporting competitions or events by persons taking part in these competitions or events (Annex F, ex point 2).

Article 2

For the purpose of calculating the VAT-own-resources base for 1982, the Kingdom of Belgium is authorized, pursuant to the second indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, to use approximate estimates in respect of the following categories of transactions referred to in Annexes E and F to the Sixth Directive:

1. The services of travel agents referred to in Article 26 of the Sixth Directive, and those of travel agents acting in the name and on account of the traveller, for journeys outside the Community (Annex E, point 15);
2. Services supplied by 'avocats', in so far as these are not services specified in Annex B to Second Directive 67/228/EEC (Annex F, ex point 2);
3. Services supplied by 'notaires' and 'huissiers de justice' (for all activities), in so far as these are not services specified in Annex B to Second Directive 67/228/EEC (Annex F, ex point 2);
4. Treatment of animals by veterinary surgeons (Annex F, point 9);
5. Transactions of hospitals not covered by Article 13 (A) (1) (b) of the Sixth Directive (Annex F, point 10);
6. Supplies of land described in Article 4 (3) of the Sixth Directive (Annex F, ex point 16).

Article 3

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 11 March 1983.

For the Commission

Christopher TUGENDHAT

Vice-President

(1) OJ No 71, 14. 4. 1967, p. 1303/67.

COMMISSION DECISION

of 11 March 1983

concerning the Federal Republic of Germany pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax

(Only the German text is authentic)

(83/141/EEC, Euratom, ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (1),

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (2), and in particular the first subparagraph of Article 9 (3), the second subparagraph of Article 11 (1) and Article 13 (2) thereof,

Whereas the Commission, pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77, adopted, for 1980, Decision 81/478/Euratom, ECSC, EEC (3) and, for 1981, Decision 82/758/ECSC, EEC, Euratom (4);

Whereas the Federal Republic of Germany has requested the extension of the earlier Decisions; whereas it still wishes to use for 1982 figures for a year earlier than the penultimate year to determine the breakdown provided for in Article 7 of Regulation, (EEC, Euratom, ECSC) No 2892/77;

Whereas, for the early years of implementation of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (5), authorizations should be granted annually;

Whereas the Advisory Committee on Own Resources has approved the report recording the opinions of its members on this Decision,

HAS ADOPTED THIS DECISION:

Article 1

Decision 81/478/Euratom, ECSC, EEC is extended for 1982, with '1977' and '1976' amended to '1979' and '1978' respectively in Article 1.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 11 March 1983.

For the Commission

Christopher TUGENDHAT

Vice-President

(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No L 336, 27. 12. 1977, p. 8.
(3) OJ No L 186, 8. 7. 1981, p. 23.
(4) OJ No L 320, 17. 11. 1982, p. 16.
(5) OJ No L 145, 13. 6. 1977, p. 1.

COMMISSION DECISION

of 11 March 1983

concerning the French Republic pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax

(Only the French text is authentic)

(83/142/EEC, Euratom, ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (1),

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (2), and in particular the first subparagraph of Article 9 (3), the second subparagraph of Article 11 (1) and Article 13 (2) thereof,

Whereas the Commission, pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77, adopted, for 1979, Decision 80/821/EEC, Euratom, ECSC (3), for 1980, Decision 81/1017/Euratom, ECSC, EEC (4) and, for 1981, Decision 82/759/ECSC, EEC, Euratom (5);

Whereas the French Republic has requested the extension of the earlier Decisions; whereas the three-year period during which the Member States may grant the right to opt for taxation under Article 28 (3) (c) in conjunction with Annex G to Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (6), hereinafter called 'the Sixth Directive', expired on 31 December 1981 and the relevant authorization need not, therefore, be renewed; whereas the figures available to the French Republic for the calculation of the VAT-own-resources base for services supplied by members of certain professions and the services of experts in connection with insurance claim assessments, exempted under Article 28 (3) (b) of the Sixth Directive as transactions listed in points 2 and 11 of Annex F, are approximate figures rather than appropriate figures; whereas the French Republic should be authorized to use approximate figures;

Whereas, for the early years of implementation of the Sixth Directive, authorizations should be granted annually;

Whereas the Advisory Committee on Own Resources has approved the report recording the opinions of its members of this Decision,

HAS ADOPTED THIS DECISION:

Article 1

For the purpose of calculating the VAT-own-resources base for 1982, the French Republic is authorized, pursuant to the first indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, not to take into account the following categories of transactions referred to in Annex F to the Sixth Directive:

1. Supply of services by means of agricultural machinery for individual or associated agricultural undertakings (Annex F, point 3);

2. Transactions carried out by blind persons or workshops for the blind provided these exemptions do not give rise to significant distortion of competition (Annex F, point 7);

3. The supply of goods and services to official bodies responsible for the construction, setting out and maintenance of cemeteries, graves and monuments commemorating war dead (Annex F, point 8).

(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No L 336, 27. 12. 1977, p. 8.
(3) OJ No L 239, 12. 9. 1980, p. 20.
(4) OJ No L 367, 23. 12. 1981, p. 33.
(5) OJ No L 320, 17. 11. 1982, p. 18.
(6) OJ No L 145, 13. 6. 1977, p. 1.

Article 2

For the purpose of calculating the VAT-own-resources base for 1982, the French Republic is authorized, pursuant to the second indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, to use approximate estimates in respect of the following categories of transactions referred to in Annex F to the Sixth Directive:

1. Admission to sporting events (Annex F, point 1);
2. Services supplied by members of certain professions (Annex F, ex point 2);
3. Services of experts in connection with insurance claim assessments (Annex F, point 11);
4. The supply of water by public authorities (Annex F, point 12);
5. Passenger transport (Annex F, ex point 17);
6. Supplies of recuperable material and fresh industrial waste (Annex F, point 20);
7. Transactions concerning gold other than gold for industrial use (Annex F, point 26);
8. The services of travel agents referred to in Article 26 of the Sixth Directive, and those of travel agents acting in the name and on account of the traveller, for journeys within the Community (Annex F, point 27).

Article 3

This Decision is addressed to the French Republic

Done at Brussels, 11 March 1983.

For the Commission

Christopher TUGENDHAT

Vice-President

COMMISSION DECISION

of 11 March 1983

concerning Ireland pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax

(Only the English text is authentic)

(83/143/EEC, Euratom, ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (1),

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (2), and in particular the first subparagraph of Article 9 (3), the second subparagraph of Article 11 (1) and Article 13 (2) thereof,

Whereas the Commission, pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77, adopted, for 1980, Decision 81/368/Euratom, ECSC, EEC (3) and, for 1981, Decision 82/758/ECSC, EEC, Euratom (4);

Whereas Ireland has requested the extension of the earlier Decisions; whereas services supplied by accountants, exempted under Article 28 (3) (b) in conjunction with Annex F to Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (5), hereinafter called 'the Sixth Directive', were made subject to value added tax from 1 September 1982; whereas debt collection, exempted under Article 28 (3) (b) in connection with Annex F to the Sixth Directive, was made subject to value added tax from 1 September 1982; whereas the services supplied by lawyers and actuaries, exempted under Article 28 (3) (b) in conjunction with Annex F to the Sixth Directive, were made subject to value added tax from 1 September 1982; whereas in these three cases authorizations should apply only up to 31 August 1982;

Whereas, for the early years of implementation of the Sixth Directive, authorizations should be granted annually;

Whereas the Advisory Committee on Own Resources has approved the report recording the opinions of its members on this Decision,

HAS ADOPTED THIS DECISION:

Article 1

Decision 81/368/Euratom, ECSC, EEC is extended for 1982 with the exception of Articles 2 (4) and (5) and 3 (3) in respect of which the authorizations expire on 31 August 1982.

Article 2

This Decision is addressed to Ireland.

Done at Brussels, 11 March 1983.

For the Commission

Christopher TUGENDHAT

Vice-President

(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No L 336, 27. 12. 1977, p. 8.
(3) OJ No L 145, 3. 6. 1981, p. 15.
(4) OJ No L 320, 17. 11. 1982, p. 16.
(5) OJ No L 145, 13. 6. 1977, p. 1.

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COMMISSION DECISION

of 11 March 1983

concerning the Italian Republic pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax

(Only the Italian text is authentic)

(83/144/EEC, Euratom, ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (1),

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (2), and in particular the first subparagraph of Article 9 (3), the second subparagraph of Article 11 (1) and Article 13 (2) thereof,

Whereas the Commission, pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77, adopted, for 1979, Decision 80/513/EEC, Euratom, ECSC (3), for 1980, Decision 81/1017/Euratom, ECSC, EEC (4) and, for 1981, Decision 82/810/ECSC, EEC, Euratom (5);

Whereas the Italian Republic has requested the extension of the earlier Decisions;

Whereas, for the early years of implementation of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (6), authorizations should be granted annually;

Whereas the Advisory Committee on Own Resources has approved the report recording the opinions of its members on this Decision,

HAS ADOPTED THIS DECISION:

Article 1

Decision 80/513/EEC, Euratom, ECSC is extended for 1982.

Article 2

This Decision is addressed to the Italian Republic.

Done at Brussels, 11 March 1983.

For the Commission

Christopher TUGENDHAT

Vice-President

(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No L 336, 27. 12. 1977, p. 8.
(3) OJ No L 126, 21. 5. 1980, p. 17.
(4) OJ No L 367, 23. 12. 1981, p. 33.
(5) OJ No L 343, 4. 12. 1982, p. 16.
(6) OJ No L 145, 13. 6. 1977, p. 1.

No L 96/50 Official Journal of the European Communities 15. 4. 83

COMMISSION DECISION

of 11 March 1983

concerning the Grand-Duchy of Luxembourg pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax

(Only the French text is authentic)

(83/145/EEC, Euratom, ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (1),

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (2), and in particular the first subparagraph of Article 9 (3), the second subparagraph of Article 11 (1) and Article 13 (2) thereof,

Whereas the Commission, pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77, adopted, for 1980, Decision 80/1134/EEC, Euratom, ECSC (3) and, for 1981, Decision 82/758/ECSC, EEC, Euratom (4);

Whereas the Grand-Duchy of Luxembourg has requested the extension of the earlier Decisions; whereas it still wishes to use figures for a year earlier than the penultimate year for the breakdown provided for in Article 7 of Regulation (EEC, Euratom, ECSC) No 2892/77; whereas it exempts transactions relating to the domestic parts of international transport operations and is authorized to do so under Article 28 (3) (b) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (5), hereinafter called 'the Sixth Directive'; whereas it must take these transactions into account for calculating the VAT-own-resources base since they are covered by point 17 of Annex F to the Sixth Directive; whereas it does not possess appropriate data relating to these transactions and so should be authorized, pursuant to the second indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, to use approximate estimates to determine the VAT-own-resources base;

Whereas, for the early years of implementation of the Sixth Directive, authorizations should be granted annually;

Whereas the Advisory Committee on Own Resources has approved the report recording the opinions of its members on this Decision,

HAS ADOPTED THIS DECISION:

Article 1

For the purpose of determining the breakdown by rate as provided for in Article 7 of Regulation (EEC, Euratom, ECSC) No 2892/77, the Grand-Duchy of Luxembourg is authorized for 1982 to use data taken from the national accounts for 1978.

Article 2

For the purpose of calculating the VAT-own-resources base for 1982, the Grand-Duchy of Luxembourg is authorized, pursuant to the first indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, not to take into account the following categories of transactions referred to in Annexes E and F to the Sixth Directive:

1. Transactions referred to in Article 13 (A) (1) (f) of the Sixth Directive other than those of groups of a medical or paramedical nature (Annex E, point 3);

(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No L 336, 27. 12. 1977, p. 8.
(3) OJ No L 336, 13. 12. 1980, p. 35.
(4) OJ No L 320, 17. 11. 1982, p. 16.
(5) OJ No L 145, 13. 6. 1977, p. 1.

2. Services supplied by travel agencies acting on behalf and for the account of the traveller, for journeys outside the Community (Annex E, point 15);
3. Admission to sporting events (Annex F, point 1);
4. Management of credit and credit guarantees by a person or body other than the one which granted the credit (Annex F, point 13).

Article 3

For the purpose of calculating the VAT-own-resources base for 1982, the Grand-Duchy of Luxembourg is authorized, pursuant to the second indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, to use approximate estimates in respect of the following categories of transactions referred to in Annex F to the Sixth Directive:

1. Telecommunications services supplied by public postal services and supplies of goods incidental thereto (Annex F, point 5);
2. The supply of water by public authorities (Annex F, point 12);
3. The domestic parts of international transport operations (Annex F, ex point 17).

Article 4

This Decision is addressed to the Grand-Duchy of Luxembourg.

Done at Brussels, 11 March 1983.

For the Commission

Christopher TUGENDHAT

Vice-President

No L 105/38 Official Journal of the European Communities 23. 4. 83

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 28 March 1983

determining the scope of Article 14 (1) (d) of Directive 77/388/EEC as regards exemption from value added tax on the final importation of certain goods

(83/181/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas, pursuant to Article 14 (1) (d) of Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (4), Member States shall, without prejudice to other Community provisions and under conditions which they shall lay down for the purpose *inter alia* of preventing any possible evasion, avoidance or abuse, exempt final importation of goods qualifying for exemption from customs duties other than as provided for in the Common Customs Tariff or which would qualify therefore if they were imported from a third country;

Whereas, in accordance with Article 14 (2) of the abovementioned Directive, the Commission is required to submit to the Council proposals designed to lay down Community tax rules clarifying the scope of the exemptions referred to in paragraph 1 of the said Article and detailed rules for their implementation;

Whereas, while it is deemed desirable to achieve the greatest possible degree of uniformity between the system for customs duties and that for value added tax, account should be taken, nevertheless, in applying the latter system, of the differences as regards objective and structure between customs duties and value added tax;

Whereas arrangements for value added tax should be introduced that differ according to whether goods are imported from third countries or from other Member States and to the extent necessary to comply with the objectives of tax harmonization; whereas the exemptions on importation can be granted only on condition that they are not liable to affect the conditions of competition on the home market;

Whereas certain reliefs at present applied in the Member States stem from conventions with third countries or with other Member States which, given their purpose, concern only the signatory Member States; whereas it is not expedient to define at Community level conditions for granting such reliefs;

(1) OJ No C 171, 11. 7. 1980, p. 8.
(2) OJ No C 50, 9. 3. 1981, p. 106.
(3) OJ No C 300, 18. 11. 1980, p. 11.
(4) OJ No L 145, 13. 6. 1977, p. 1.

whereas the Member States concerned need merely be authorized to retain them,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. The scope of the exemptions from value added tax referred to in Article 14 (1) (d) of Directive 77/388/EEC and the rules for their implementation referred to in Article 14 (2) of that Directive shall be defined by this Directive. In accordance with the aforesaid Article, the Member States shall apply the exemptions laid down in this Directive under the conditions fixed by them in order to ensure that such exemptions are correctly and simply applied and to prevent any evasion, avoidance or abuses.

2. For the purposes of this Directive:

(a) 'imports' means imports as defined in Article 7 of 77/388/EEC and the entry for home use after being subject to one of the systems provided for in Article 16 (1) (A) of the said Directive or a system of temporary admission or transit;

(b) 'personal property' means any property intended for the personal use of the persons concerned or for meeting their household needs.

The following, in particular, shall constitute 'personal property':

— household effects,

— cycles and motor-cycles, private motor vehicles and their trailers, camping caravans, pleasure craft and private aeroplanes.

Household provisions appropriate to normal family requirements, household pets and saddle animals shall also constitute 'personal property'.

The nature or quantity of personal property shall not reflect any commercial interest, nor shall they be intended for an economic activity within the meaning of Article 4 of Directive 77/388/EEC. However, portable instruments of the applied or liberal arts, required by the person concerned for the pursuit of his trade or profession, shall also constitute personal property;

(c) 'household effects' means personal effects, household linen and furnishings and items of equipment intended for the personal use of the persons concerned or for meeting their household needs;

(d) 'alcoholic products' means products (beer, wine, aperitifs with a wine or alcohol base, brandies, liqueurs and spirituous beverages, etc.) falling within heading Nos 22.03 to 22.09 of the Common Customs Tariff;

(e) 'Community' means the territory of the Member States where Directive 77/388/EEC applies.

TITLE I

IMPORTATION OF PERSONAL PROPERTY BELONGING TO INDIVIDUALS COMING FROM COUNTRIES SITUATED OUTSIDE THE COMMUNITY

Chapter I

Personal property of natural persons transferring their normal place of residence from a third country to the Community

Article 2

Subject to Articles 3 to 10, exemption from VAT on importation shall be granted on personal property imported by natural persons transferring their normal place of residence from outside the Community to a Member State of the Community.

Article 3

Exemption shall be limited to personal property which:

(a) except in special cases justified by the circumstances, has been in the possession of and, in the case of non-consumable goods, used by the person concerned at his former normal place of residence for a minimum of six months before the date on which he ceases to have his normal place of residence outside the Community;

(b) is intended to be used for the same purpose at his new normal place of residence.

The Member States may in addition make exemption conditional upon such property having borne, either in the country of origin or in the country of departure, the customs and/or fiscal charges to which it is normally liable.

Article 4

Exemption may be granted only to persons whose normal place of residence has been outside the Community for a continuous period of at least 12 months.

However, the competent authorities may grant exceptions to this rule provided that the intention of the person concerned was clearly to reside outside the Community for a continuous period of at least 12 months.

Article 5

Exemption shall not be granted in respect of:

(a) alcoholic products;

(b) tobacco or tobacco products;

(c) commercial means of transport;

(d) articles for use in the exercise of a trade or profession, other than portable instruments of the applied or liberal arts.

Vehicles intended for mixed use for commercial or professional purposes may also be excluded from exemption.

Article 6

Except in special cases, exemption shall be granted only in respect of personal property entered for permanent importation within 12 months of the date of establishment, by the person concerned, of his normal place of residence in the Member State of importation.

The personal property may be imported in several separate consignments within the period referred to in the preceding paragraph.

Article 7

1. Until 12 months have elapsed from the date of the declaration for its final importation, personal property which has been imported exempt from tax may not be lent, given as security, hired out or transferred, whether for a consideration or free of charge, without prior notification to the competent authorities.

2. Any loan, giving as security, hiring out or transfer before the expiry of the period referred to in paragraph 1 shall entail payment of the relevant value added tax on the goods concerned, at the rate applying on the date of such loan, giving as security, hiring out or transfer, on the basis of the type of goods and the customs value ascertained or accepted on that date by the competent authorities.

Article 8

1. By way of derogation from the first paragraph of Article 6, exemption may be granted in respect of personal property permanently imported before the person concerned establishes his normal place of residence in the Member State of importation, provided that he undertakes actually to establish his normal place of residence there within a period of six months. Such undertaking shall be accompanied by a security, the form and amount of which shall be determined by the competent authorities.

2. Where use is made of the provisions of paragraph 1, the period laid down in Article 3 shall be calculated from the date of importation into the Member State concerned.

Article 9

1. Where, owing to occupational commitments, the person concerned leaves the country situated outside the Community where he had his normal place of residence without simultaneously establishing his normal place of residence in the territory of a Member State, although having the intention of ultimately doing so, the competent authorities may authorize exemption in respect of the personal property which he transfers into the said territory for this purpose.

2. Exemption in respect of the personal property referred to in paragraph 1 shall be granted in accordance with the conditions laid down in Articles 2 to 7, on the understanding that:

(a) the periods laid down in Article 3 (a) and the first paragraph of Article 6 shall be calculated from the date of importation;

(b) the period referred to in Article 7 (1) shall be calculated from the date when the person concerned actually establishes his normal place of residence in the territory of a Member State.

3. Exemption shall also be subject to an undertaking from the person concerned that he will actually establish his normal place of residence in the territory of a Member State within a period laid down by the competent authorities in keeping with the circumstances. The latter may require this undertaking to be accompanied by a security, the form and amount of which they shall determine.

Article 10

The competent authorities may derogate from Articles 3 (a) and (b), 5 (c) and (d) and 7 when a person has to transfer his normal place of residence from a country situated outside the Community to the territory of a Member State as a result of exceptional political circumstances.

Chapter II

Goods imported on the occasion of a marriage

Article 11

1. Subject to Articles 12 to 15, exemption shall be granted in respect of trousseaux and household effects, whether or not new, belonging to a person transferring his or her normal place of residence from a country outside the Community to the territory of a Member State on the occasion of his or her marriage.

2. Exemption shall also be granted in respect of presents customarily given on the occasion of a marriage which are sent to a person fulfilling the conditions laid down in paragraph 1 by persons having their normal place of residence in a country situated outside the Community. The exemption shall apply to presents of a unit value of not more than 200 ECU. Member States may, however, grant exemption for more than 200 ECU provided that the value of each exempt present does not exceed 1 000 ECU.

3. The Member State may make exemption of the goods referred to in paragraph 1 conditional on their having borne, either in the country of origin or in the country of departure, the customs and/or fiscal charges to which they are normally liable.

Article 12

The exemption referred to in Article 11 may be granted only to persons:

(a) whose normal place of residence has been outside the Community for a continuous period of at least 12 months. However, derogations from this rule may be granted provided that the intention of the person concerned was clearly to reside outside the Community for a continuous period of at least 12 months;

(b) who produce evidence of their marriage.

Article 13

No exemption shall be granted for alcoholic products, tobacco or tobacco products.

Article 14

1. Save in exceptional circumstances, exemption shall be granted only in respect of goods permanently imported:

— not earlier than two months before the date fixed for the wedding (in this case exemption may be made subject to the lodging of appropriate security, the form and amount of which shall be determined by the competent authorities), and

— not later than four months after the date of the wedding.

2. Goods referred to in Article 11 may be imported in several separate consignments within the period referred to in paragraph 1.

Article 15

1. Until 12 months have elapsed from the date of the declaration for their final importation, goods which have been imported exempt from tax may not be lent, given as security, hired out or transferred, whether for a consideration or free of charge, without prior notification to the competent authorities.

2. Any loan, giving as security, hiring out or transfer before the expiry of the period referred to in paragraph 1 shall entail payment of the relevant value added tax on the goods concerned, at the rate applying on the date of such loan, giving as security, hiring out or transfer, on the basis of the type of goods and the value ascertained or accepted on that date by the competent authorities.

Chapter III

Personal property acquired by inheritance

Article 16

Subject to Articles 17 to 19, exemption shall be granted in respect of personal property acquired by inheritance by a natural person having his normal place of residence in a Member State.

Article 17

Exemption shall not be granted in respect of:

(a) alcoholic products;

(b) tobacco or tobacco products;

(c) commercial means of transport;

(d) articles for use in the exercise of a trade or profession, other than portable instruments of the applied or liberal arts, which were required for the exercise of the trade or profession of the deceased;

(e) stocks of raw materials and finished or semi-finished products;

(f) livestock and stocks of agricultural products exceeding the quantities appropriate to normal family requirements.

Article 18

1. Exemption shall be granted only in respect of personal property permanently imported not later than two years from the date on which the person becomes entitled to the goods (final settlement of the inheritance).

However, this period may be extended by the competent authorities on special grounds.

2. The goods may be imported in several separate consignments within the period referred to in paragraph 1.

Article 19

Articles 16 to 18 shall apply *mutatis mutandis* to personal property acquired by inheritance by legal persons engaged in a non-profitmaking activity who are established in the territory of a Member State.

TITLE II

SCHOOL OUTFITS, SCHOLASTIC MATERIALS AND OTHER SCHOLASTIC HOUSEHOLD EFFECTS

Article 20

1. Exemption shall be granted in respect of outfits, scholastic materials and household effects representing the usual furnishings for a student's room and belonging to pupils or students coming to stay in a Member State for the purposes of studying there and intended for their personal use during the period of their studies.

2. For the purposes of this Article:

(a) pupil or student means any person enrolled in an educational establishment in order to attend full-time the courses offered therein;

(b) outfit means underwear and household linen as well as clothing, whether or not new;

(c) scholastic materials means articles and instruments (including calculators and typewriters) normally used by pupils or students for the purposes of their studies.

Article 21

Exemption shall be granted at least once per school year.

TITLE III

IMPORTS OF NEGLIGIBLE VALUE

Article 22

Member States may allow exemptions on imports of goods of a total value not exceeding 22 ECU.

Article 23

Exemption shall not apply to the following:

(a) alcoholic products;

(b) perfumes and toilet waters;

(c) tobacco or tobacco products.

TITLE IV

CAPITAL GOODS AND OTHER EQUIPMENT IMPORTED ON THE TRANSFER OF ACTIVITIES

Article 24

1. Without prejudice to the measures in force in the Member State with regard to industrial and commercial policy, and subject to Articles 25 to 28, Member States may allow exemption, on admission, for imports of capital goods and other equipment belonging to undertakings which definitively cease their activity in the country of departure in order to carry on a similar activity in the Member State into which the goods are imported and which, in accordance with Article 22 (1) of Directive 77/388/EEC, have given advance notice to the competent authorities of the Member State of importation of the commencement of such activity.

Where the undertaking transferred is an agricultural holding, its livestock shall also be exempt on admission.

2. For the purposes of paragraph 1:

— 'activity' means an economic activity as referred to in Article 4 of Directive 77/388/EEC,

— 'undertaking' means an independent economic unit of production or of the service industry.

Article 25

1. The exemption referred to in Article 24 shall be limited to capital goods and equipment which:

(a) except in special cases justified by the circumstances, have actually been used in the undertaking for a minimum of 12 months prior to the date on which the undertaking ceased to operate in the country of departure;

(b) are intended to be used for the same purposes after the transfer;

(c) are to be used for the purposes of an activity not exempted under Article 13 of Directive 77/388/EEC;

(d) are appropriate to the nature and size of the undertaking in question.

2. However, Member States may exempt capital goods and equipment imported from another Member State by charitable or philanthropic organizations at the time of the transfer of their principal place of business to the Member State of importation.

Such exemption shall, however, be granted only on condition that at the time when they were acquired the capital goods and equipment in question were not exempt under Article 15 (12) of Directive 77/388/EEC.

3. Pending entry into force of the common rules referred to in the first subparagraph of Article 17 (6) of Directive 77/388/EEC, Member States may exclude from the exemption, in whole or in part, capital goods in respect of which they have availed themselves of the second subparagraph of that paragraph.

Article 26

No exemption shall be granted to undertakings established outside the Community and the transfer of which into the territory of a Member State is consequent upon or is for the purpose of merging with, or being absorbed by, an undertaking established in the Community, without a new activity being set up.

Article 27

No exemption shall be granted for:

(a) means of transport which are not of the nature of instruments of production or of the service industry;

(b) supplies of all kinds intended for human consumption or for animal feed;

(c) fuel and stocks of raw materials or finished or semi-finished products;

(d) livestock in the possession of dealers.

Article 28

Except in special cases justified by the circumstances, the exemption referred to in Article 24 shall be granted only in respect of capital goods and other equipment imported before the expiry of a period of 12 months from the date when the undertaking ceased its activities in the country of departure.

TITLE V

IMPORTATION OF CERTAIN AGRICULTURAL PRODUCTS AND PRODUCTS INTENDED FOR AGRICULTURAL USE

Chapter I

Products obtained by Community farmers on properties located in a State other than the State of importation

Article 29

1. Subject to Articles 30 and 31, agricultural, stock-farming, bee-keeping, horticultural and forestry products from properties located in a country adjoining the territory of the Member State of importation which are operated by agricultural producers having their principal undertaking in that Member State and adjacent to the country concerned shall be exempt on admission.

2. To be eligible under paragraph 1, stock-farming products must be obtained from animals reared, acquired or imported in accordance with the general tax arrangements applicable in the Member State of importation.

3. Pure-bred horses, not more than six months old and born outside the Member State of importation of an

animal covered in that State and then exported temporarily to give birth, shall be exempt on admission.

Article 30

Exemption shall be limited to products which have not undergone any treatment other than that which normally follows their harvest or production.

Article 31

Exemption shall be granted only in respect of products imported by the agricultural producer or on his behalf.

Article 32

This Chapter shall apply *mutatis mutandis* to the products of fishing or fish-farming activities carried out in the lakes or waterways bordering the territory of the Member State of importation by fishermen established in that Member State and to the products of hunting activities carried out on such lakes or waterways by sportsmen established in that Member State.

Chapter II

Seeds, fertilizers and products for the treatment of soil and crops

Article 33

Subject to Article 34, seeds, fertilizers and products for the treatment of soil and crops, intended for use on property located in a Member State adjoining a country situated outside the Community or another Member State and operated by agricultural producers having their principal undertaking in the said country situated outside the Community or Member State adjacent to the territory of the Member State of importation shall be exempt on admission.

Article 34

1. Exemption shall be limited to the quantities of seeds, fertilizers or other products required for the purpose of operating the property.

2. It shall be granted only for seeds, fertilizers or other products introduced directly into the importing Member State by the agricultural producer or on his behalf.

3. Member States may make exemption conditional upon the granting of reciprocal treatment.

TITLE VI

IMPORTATION OF THERAPEUTIC SUBSTANCES, MEDICINES, LABORATORY ANIMALS AND BIOLOGICAL OR CHEMICAL SUBSTANCES

Chapter I

Laboratory animals and biological or chemical substances intended for research

Article 35

1. The following shall be exempt on admission:

(a) animals specially prepared and sent free of charge for laboratory use;

(b) biological or chemical substances:

— which are imported free of charge from the territory of another Member State, or

— which are imported from countries outside the Community subject to the limits and conditions laid down in Article 60 (1) (b) of Council Regulation (EEC) No 918/83 of 28 March 1983 setting up a Community system of reliefs from customs duty (1).

2. The exemption referred to in paragraph 1 shall be limited to animals and biological or chemical substances which are intended for:

— either public establishments principally engaged in education or scientific research, including those departments of public establishmets which are principally engaged in education or scientific research,

— or private establishments principally engaged in education or scientific research and authorized by the competent authorities of the Member States to receive such articles exempt from tax.

(1) See page 1 of this Official Journal.

Chapter II

Therapeutic substances of human origin and blood-grouping and tissue-typing reagents

Article 36

1. Without prejudice to the exemption provided for in Article 14 (1) (a) of Directive 77/388/EEC and subject to Article 37, the following shall be exempted:

(a) therapeutic substances of human origin;

(b) blood-grouping reagents;

(c) tissue-typing reagents.

2. For the purposes of paragraph 1:

— 'therapeutic substances of human origin' means human blood and its derivatives (whole human blood, dried human plasma, human albumin and fixed solutions of human plasma protein, human immunoglobulin and human fibrinogen),

— 'blood-grouping reagents' means all reagents, whether of human, animal, plant or other origin used for blood-type grouping and for the detection of blood incompatibilities,

— 'tissue-typing reagents' means all reagents whether of human, animal, plant or other origin used for the determination of human tissue-types.

Article 37

Exemption shall be limited to products which:

(a) are intended for institutions or laboratories approved by the competent authorities, for use exclusively for non-commercial medical or scientific purposes;

(b) are accompanied by a certificate of conformity issued by a duly authorized body in the country of departure;

(c) are in containers bearing a special label identifying them.

Article 38

Exemption shall include the special packaging essential for the transport of therapeutic substances of human origin or blood-grouping or tissue-typing reagents and also any solvents and accessories needed for their use which may be included in the consignments.

Chapter III

Pharmaceutical products used at international sports events

Article 39

Pharmaceutical products for human or veterinary medical use by persons or animals participating in international sports events shall, within the limits necessary to meet their requirements during their stay in the Member State of importation, be exempt on admission.

TITLE VII

GOODS FOR CHARITABLE OR PHILANTHROPIC ORGANIZATIONS

Article 40

Member States may impose a limit on the quantity or value of the goods referred to in Articles 41 to 55, in order to remedy any abuse and to combat major distortions of competition.

Chapter I

Goods imported for general purposes

Article 41

1. Subject to Articles 42 to 44, the following shall be exempt on admission:

(a) basic necessities obtained free of charge and imported by State organizations or other charitable or philanthropic organizations approved by the competent authorities for distribution free of charge to needy persons;

(b) goods of every description sent free of charge, by a person or organization established in a country other than the Member State of importation, and without any commercial intent on the part of the sender, to State organizations or other charitable or philanthropic organizations approved by the competent authorities, to be used for fund-raising at occasional charity events for the benefit of needy persons;

(c) equipment and office materials sent free of charge, by a person or organization established in a country other than the Member State of importation, and without any commercial intent on the part of the sender, to charitable or philanthropic organizations approved by the competent authorities, to be used solely for the purpose of meeting their operating needs or carrying out their stated charitable or philanthropic aims.

2. For the purposes of paragraph 1 (a) 'basic necessities' means those goods required to meet the immediate needs of human beings, e.g. food, medicine, clothing and bed-clothes.

Article 42

Exemption shall not be granted in respect of:

(a) alcoholic products;

(b) tobacco or tobacco products;

(c) coffee and tea;

(d) motor vehicles other than ambulances.

Article 43

Exemption shall be granted only to organizations accounting procedures of which enable the competent authorities to supervise their operations and which offer all the guarantees considered necessary.

Article 44

1. Exempt goods may not be put out by the organization entitled to exemption for loan, hiring out or transfer, whether for a consideration or free of charge, for purposes other than those laid down in Article 41 (1) (a) and (b), unless the competent authorities have been informed thereof in advance.

2. Should goods and equipment be lent, hired out or transferred to an organization entitled to benefit from exemption pursuant to Articles 41 and 43, the exemption shall continue to be granted provided that the latter uses the goods and equipment for purposes which confer the right to such exemption.

In other cases, loan, hiring out or transfer shall be subject to prior payment of value added tax at the rate applying on the date of the loan, hiring out or transfer, on the basis of the type of goods and equipment and the value ascertained or accepted on that date by the competent authorities.

Article 45

1. Organizations referred to in Article 41 which cease to fulfil the conditions giving entitlement to exemption, or which are proposing to use goods and equipment exempt on admission for purposes other than those provided for by that Article, shall so inform the competent authorities.

2. Goods remaining in the possession of organizations which cease to fulfil the conditions giving entitlement to exemption shall be liable to the relevant import value added tax at the rate applying on the date on which those conditions cease to be fulfilled, on the basis of the type of goods and equipment and the value as ascertained or accepted on that date by the competent authorities.

3. Goods used by the organization benefiting from the exemption for purposes other than those provided for in Article 41 shall be liable to the relevant import value added tax at the rate applying on the date on which they are put to another use on the basis of the type of goods and equipment and the value as ascertained on that date by the competent authorities.

Chapter II

Articles imported for the benefit of handicapped persons

Article 46

1. Articles specially designed for the education, employment or social advancement of blind or other physically or mentally handicapped persons shall be exempt on admission where:

(a) they are imported by institutions or organizations that are principally engaged in the education of or the provision of assistance to handicapped persons and are authorized by the competent authorities of the Member States to receive such articles exempt from tax; and

(b) they are donated to such institutions or organizations free of charge and with no commercial intent on the part of the donor.

2. Exemption shall apply to specific spare parts, components or accessories specifically for the aricles in question and to the tools to be used for the maintenance, checking, calibration and repair of the said articles, provided that such spare parts, components, accessories or tools are imported at the

same time as the said articles or, if imported subsequently, that they can be identified as being intended for articles previously exempt on admission or which would be eligible to be so exempt at the time when such entry is requested for the specific spare parts, components or accessories and tools in question.

3. Articles exempt on admission may not be used for purposes other than the education, employment or social advancement of blind or other handicapped persons.

Article 47

1. Goods exempt on admission may be lent, hired out or transferred, whether for a consideration or free of charge, by the beneficiary institutions or organizations on a non-profitmaking basis to the persons referred to in Article 46 with whom they are concerned, without payment of value added tax on importation.

2. No loan, hiring out or transfer may be effected under conditions other than those provided for in paragraph 1 unless the competent authorities have first been informed.

Should an article be lent, hired out or transferred to an institution or organization itself entitled to benefit from this exemption, the exemption shall continue to be granted, provided the latter uses the article for purposes which confer the right to such exemption.

In other cases, loan, hiring out or transfer shall be subject to prior payment of value added tax, at the rate applying on the date of the loan, hiring out or transfer, on the basis of the type of goods and the value ascertained or accepted on that date by the competent authorities.

Article 48

1. Institutions or organizations referred to in Article 46 which cease to fulfil the conditions giving entitlement to exemption, or which are proposing to use articles exempt on admission for purposes other than those provided for by that Article shall so inform the competent authorities.

2. Articles remaining in the possession of institutions or organizations which cease to fulfil the conditions giving entitlement to exemption shall be liable to the relevant import value added tax at the rate applying on the date on which those conditions cease to be fulfilled, on the basis of the type of goods and the value ascertained or accepted on that date by the competent authorities.

3. Articles used by the institution or organization benefiting from the exemption for purposes other than those provided for in Article 46 shall be liable to the relevant import value added tax at the rate applying on the date on which they are put to another use on the basis of the type of goods and the value ascertained or accepted on that date by the competent authorities.

Chapter III

Goods imported for the benefit of disaster victims

Article 49

1. Subject to Articles 50 to 55, goods imported by State organizations or other charitable or philanthropic organizations approved by the competent authorities shall be exempt on admission where they are intended:

(a) for distribution free of charge to victims of disasters affecting the territory of one or more Member States; or

(b) to be made available free of charge to the victims of such disasters, while remaining the property of the organizations in question.

2. Goods imported by disaster-relief agencies in order to meet their needs during the period of their activity shall also benefit upon admission from the exemption referred to in paragraph 1 under the same conditions.

Article 50

No exemption shall be granted for materials and equipment intended for rebuilding disaster areas.

Article 51

Granting of the exemption shall be subject to a decision by the Commission, acting at the request of the Member State or States concerned in accordance with an emergency procedure entailing the consultation of the other Member States. This decision shall, where necessary, lay down the scope and the conditions of the exemption.

Pending notification of the Commission's decision, Member States affected by a disaster may authorize the suspension of any import value added tax chargeable on

goods imported for the purposes described in Article 49, subject to an undertaking by the importing organization to pay such tax if exemption is not granted.

Article 52

Exemption shall be granted only to organizations the accounting procedures of which enable the competent authorities to supervise their operations and which offer all the guarantees considered necessary.

Article 53

1. The organizations benefiting from the exemption may not lend, hire out or transfer, whether for a consideration or free of charge, the goods referred to in Article 49 (1) under conditions other than those laid down in that Article without prior notification thereof to the competent authorities.

2. Should goods be lent, hired out or transferred to an organization itself entitled to benefit from exemption pursuant to Article 49, the exemption shall continue to be granted, provided the latter uses the goods for purposes which confer the right to such exemption.

In other cases, loan, hiring out or transfer shall be subject to prior payment of value added tax, at the rate applying on the date of the loan, hiring out or transfer, on the basis of the type of goods and the value ascertained or accepted on that date by the competent authorities.

Article 54

1. The goods referred to in Article 49 (1) (b), after they cease to be used by disaster victims, may not be lent, hired out or transferred, whether for a consideration or free of charge, unless the competent authorities are notified in advance.

2. Should goods be lent, hired out or transferred to an organization itself entitled to benefit from exemption pursuant to Article 49 or, if appropriate, to an organization entitled to benefit from exemption pursuant to Article 41 (1) (a), the exemption shall continue to be granted, provided such organizations use them for purposes which confer the right to such exemption.

In other cases, loan, hiring out or transfer shall be subject to prior payment of value added tax, at the rate applying on the date of the loan, hiring out or transfer, on the basis of the type of goods and the value ascertained or accepted on that date by the competent authorities.

Article 55

1. Organizations referred to in Article 49 which cease to fulfil the conditions giving entitlement to exemption, or which are proposing to use the goods exempt on admission for purposes other than those provided for by that Article shall so inform the competent authorities.

2. In the case of goods remaining in the possession of organizations which cease to fulfil the conditions giving entitlement to exemption, when these are transferred to an organization itself entitled to benefit from exemption pursuant to this chapter or, if appropriate, to an organization entitled to benefit from exemption pursuant to Article 41, the exemption shall continue to be granted, provided the organization uses the goods in question for purposes which confer the right to such exemptions. In other cases, the goods shall be liable to the relevant import value added tax at the rate applying on the date on which those conditions cease to be fulfilled, on the basis of the type of goods and the value ascertained or accepted on that date by the competent authorities.

3. Goods used by the organization benefiting from the exemption for purposes other than those provided for in this chapter shall be liable to the relevant import value added tax at the rate applying on the date on which they are put to another use, on the basis of the type of goods and the value ascertained or accepted on that date by the competent authorities.

TITLE VIII

IMPORTATION IN THE CONTEXT OF CERTAIN ASPECTS OF INTERNATIONAL RELATIONS

Chapter I

Honorary decorations or awards

Article 56

On production of satisfactory evidence to the competent authorities by the persons concerned, and provided the operations involved are not in any way of a commercial character, exemption shall be granted in respect of:

(a) decorations conferred by the government of a country other than the Member State of importation on persons whose normal place of residence is in the latter State;

(b) cups, medals and similar articles of an essentially symbolic nature which, having been awarded in a country other than the Member State of importation to persons having their normal place of residence in the latter State as a tribute to their activities in fields such as the arts, the sciences, sport or the public service or in recognition of merit at a particular event, are imported by such persons themselves;

(c) cups, medals and similar articles of an essentially symbolic nature which are given free of charge by authorities or persons established in a country other than the Member State of importation, to be presented in the territory of the latter State for the same purposes as those referred to in (b).

Chapter II

Presents received in the context of international relations

Article 57

Without prejudice, where relevant, to the provisions applicable to the international movement of travellers, and subject to Articles 58 and 59, exemption shall be granted in respect of goods:

(a) imported by persons who have paid an official visit in a country other than that of their normal residence and who have received such goods on that occasion as gifts from the host authorities;

(b) imported by persons coming to pay an official visit in the Member State of importation and who intend to offer them on that occasion as gifts to the host authorities;

(c) sent as gifts, in token of friendship or goodwill, by an official body, public authority or group carrying on an activity in the public interest which is located in a country other than the Member State of importation, to an official body, public authority or group carrying on an activity in the public interest which is located in the Member State of importation and approved by the competent authorities to receive such goods exempt from tax.

Article 58

No exemption shall be granted for alcoholic products, tobacco or tobacco products.

Article 59

Exemption shall be granted only:

— where the articles intended as gifts are offered on an occasional basis,

— where they do not, by their nature, value or quantity, reflect any commercial interest,

— if they are not used for commercial purposes.

Chapter III

Goods to be used by monarchs or heads of State

Article 60

Exemption from tax, within the limits and under the conditions laid down by the competent authorities, shall be granted in respect of:

(a) gifts to reigning monarchs and heads of State;

(b) goods to be used or consumed by reigning monarchs and heads of State of another State, or by persons officially representing them, during their official stay in the Member State of importation. However, exemption may be made subject, by the Member State of importation, to reciprocal treatment.

The provisions of the preceding subparagraph are also applicable to persons enjoying prerogatives at international level analogous to those enjoyed by reigning monarchs or heads of State.

TITLE IX

IMPORTATION OF GOODS FOR THE PROMOTION OF TRADE

Chapter I

Samples of negligible value

Article 61

1. Without prejudice to Article 65 (1) (a), samples of goods which are of negligible value and which can be

used only to solicit orders for goods of the type they represent shall be exempt on admission.

2. The competent authorities may require that certain articles, to qualify for exemption on admission, be rendered permanently unusable by being torn, perforated, or clearly and indelibly marked, or by any other process, provided such operation does not destroy their character as samples.

3. For the purposes of paragraph 1, 'samples of goods' means any article representing a type of goods whose manner of presentation and quantity, for goods of the same type or quality, rule out its use for any purpose other than that of seeking orders.

Chapter II

Printed matter and advertising material

Article 62

Subject to Article 63, printed advertising matter such as catalogues, price lists, directions for use or brochures shall be exempt on admission provided that they relate to:

(a) goods for sale or hire, or

(b) transport, commercial insurance or banking services offered

by a person established outside the Member State of importation.

Article 63

The exemption referred to in Article 62 shall be limited to printed advertisements which fulfil the following conditions:

(a) printed matter must clearly display the name of the undertaking which produces, sells or hires out the goods, or which offers the services to which it refers;

(b) each consignment must contain no more than one document or a single copy of each document if it is made up of several documents. Consignments comprising several copies of the same document may nevertheless be granted exemption provided their total gross weight does not exceed one kilogram;

(c) printed matter may not be the subject of grouped consignments from the same consignor to the same consignee.

Article 64

Articles for advertising purposes, of no intrinsic commercial value, sent free of charge by suppliers to their customers which, apart from their advertising function, are not capable of being used shall also be exempt on admission.

Chapter III

Goods used or consumed at a trade fair or similar event

Article 65

1. Subject to Articles 66 to 69, the following shall be exempt on admission:

(a) small representative samples of goods intended for a trade fair or similar event;

(b) goods imported solely in order to be demonstrated or in order to demonstrate machines and apparatus displayed at a trade fair or similar event;

(c) various materials of little value, such as paints, varnishes and wallpaper, which are to be used in the building, fitting-out and decoration of temporary stands at a trade fair or similar event, which are destroyed by being used;

(d) printed matter, catalogues, prospectuses, price lists, advertising posters, calendars, whether or not illustrated, unframed photographs and other articles supplied free of charge in order to advertise goods displayed at a trade fair or similar event.

2. For the purposes of paragraph 1, 'trade fair or similar event' means:

(a) exhibitions, fairs, shows and similar events connected with trade, industry, agriculture or handicrafts;

(b) exhibitions and events held mainly for charitable reasons;

(c) exhibitions and events held mainly for scientific, technical, handicraft, artistic, educational or cultural or sporting reasons, for religious reasons or for reasons of worship, trade union activity or tourism, or in order to promote international understanding;

(d) meetings of representatives of international organizations or collective bodies;

(e) official or commemorative ceremonies and gatherings;

but not exhibitions staged for private purposes in commercial stores or premises to sell goods.

Article 66

The exemption referred to in Article 65 (1) (a) shall be limited to samples which:

(a) are imported free of charge as such or are obtained at the exhibition from goods imported in bulk;

(b) are exclusively distributed free of charge to the public at the exhibition for use or consumption by the persons to whom they have been offered;

(c) are identifiable as advertising samples of low unitary value;

(d) are not easily marketable and, where appropriate, are packaged in such a way that the quantity of the item involved is lower than the smallest quantity of the same item actually sold on the market;

(e) in the case of foodstuffs and beverages not packaged as mentioned in (d), are consumed on the spot at the exhibition;

(f) in their total value and quantity, are appropriate to the nature of the exhibition, the number of visitors and the extent of the exhibitor's participation.

Article 67

The exemption referred to in Article 65 (1) (b) shall be limited to goods which are:

(a) consumed or destroyed at the exhibition, and

(b) are appropriate, in their total value and quantity, to the nature of the exhibition, the number of visitors and the extent of the exhibitor's participation.

Article 68

The exemption referred to in Article 65 (1) (d) shall be limited to printed matter and articles for advertising purposes which:

(a) are intended exclusively to be distributed free of charge to the public at the place where the exhibition is held;

(b) in their total value and quantity, are appropriate to the nature of the exhibition, the number of visitors and the extent of the exhibitor's participation.

Article 69

The exemption referred to in Article 65 (1) (a) and (b) shall not be granted for:

(a) alcoholic products;

(b) tobacco or tobacco products;

(c) fuels, whether solid, liquid or gaseous.

TITLE X

GOODS IMPORTED FOR EXAMINATION, ANALYSIS OR TEST PURPOSES

Article 70

Subject to Articles 71 to 76, goods which are to undergo examination, analysis or tests to determine their composition, quality or other technical characteristics for purposes of information or industrial or commercial research shall be exempt on admission.

Article 71

Without prejudice to Article 74, the exemption referred to in Article 70 shall be granted only on condition that the goods to be examined, analyzed or tested are completely used up or destroyed in the course of the examination, analysis or testing.

Article 72

No exemption shall be granted in respect of goods used in examination, analysis or tests which in themselves constitute sales promotion operations.

Article 73

Exemption shall be granted only in respect of the quantities of goods which are strictly necessary for the purpose for which they are imported. These quantities

shall in each case be determined by the competent authorities, taking into account the said purpose.

Article 74

1. The exemption referred to in Article 70 shall cover goods which are not completely used up or destroyed during examination, analysis or testing, provided that the products remaining are, with the agreement and under the supervision of the competent authorities:

— completely destroyed or rendered commercially valueless on completion of examination, analysis or testing, or

— surrendered to the State without causing it any expense, where this is possible under national law, or

— in duly justified circumstances, exported outside the territory of the Member State of importation.

2. For the purposes of paragraph 1, 'products remaining' means products resulting from the examinations, analyses or tests or goods not actually used.

Article 75

Save where Article 74 (1) is applied, products remaining at the end of the examinations, analyses or tests referred to in Article 70 shall be subject to the relevant import value added tax, at the rate applying on the date of completion of the examinations, analyses or tests, on the basis of the type of goods and the value ascertained or accepted on that date by the competent authorities.

However, the interested party may, with the agreement and under the supervision of the competent authorities, convert products remaining to waste or scrap. In this case, the import duties shall be those applying to such waste or scrap at the time of conversion.

Article 76

The period within which the examinations, analyses or tests must be carried out and the administrative formalities to be completed in order to ensure the use of the goods for the purposes intended shall be determined by the competent authorities.

TITLE XI

MISCELLANEOUS EXEMPTIONS

Chapter I

Consignments sent to organizations protecting copyrights or industrial and commercial patent rights

Article 77

Trademarks, patterns or designs and their supporting documents, as well as applications for patents for invention or the like, to be submitted to the bodies competent to deal with the protection of copyrights or the protection of industrial or commercial patent rights shall be exempt on admission.

Chapter II

Tourist information literature

Article 78

The following shall be exempt on admission:

(a) documentation (leaflets, brochures, books, magazines, guidebooks, posters, whether or not framed, unframed photographs and photographic enlargements, maps, whether or not illustrated, window transparencies, and illustrated calendars) intended to be distributed free of charge and the principal purpose of which is to encourage the public to visit foreign countries, in particular in order to attend cultural, tourist, sporting, religious or trade or professional meetings or events, provided that such literature contains not more than 25 % of private commercial advertising and that the general nature of its promotional aims is evident;

(b) foreign hotel lists and yearbooks published by official tourist agencies, or under their auspices, and timetables for foreign transport services, provided that such literature is intended for distribution free of charge and contains not more than 25 % of private commercial advertising;

(c) reference material supplied to accredited representatives or correspondents appointed by official national tourist agencies and not intended

for distribution, i.e. yearbooks, lists of telephone or telex numbers, hotel lists, fairs catalogues, specimens of craft goods of negligible value, and literature on museums, universities, spas or other similar establishments.

Chapter III

Miscellaneous documents and articles

Article 79

The following shall be exempt on admission:

(a) documents sent free of charge to the public services of Member States;

(b) publications of foreign governments and publications of official international bodies intended for distribution without charge;

(c) ballot papers for elections organized by bodies set up in countries other than the Member State of importation;

(d) objects to be submitted as evidence or for like purposes to the courts or other official agencies of the Member States;

(e) specimen signatures and printed circulars concerning signatures sent as part of customary exchanges of information between public services or banking establishments;

(f) official printed matter sent to the central banks of the Member States;

(g) reports, statements, notes, prospectuses, application forms and other documents drawn up by companies with headquarters outside the Member State of importation and sent to the bearers or subscribers of securities issued by such companies;

(h) recorded media (punched cards, sound recordings, microfilms, etc.) used for the transmission of information sent free of charge to the addressee, in so far as exemption does not give rise to abuses or to major distortions of competition;

(i) files, archives, printed forms and other documents to be used in international meetings, conferences or congresses, and reports on such gatherings;

(j) plans, technical drawings, traced designs, descriptions and other similar documents imported with a view to obtaining or fulfilling orders in a country other than the Member State of importation or to participating in a competition held in that State;

(k) documents to be used in examinations held in the Member State of importation by institutions set up in another country;

(l) printed forms to be used as official documents in the international movement of vehicles or goods, within the framework of international conventions;

(m) printed forms, labels, tickets and similar documents sent by transport undertakings or by undertakings of the hotel industry located in a country other than the Member State of importation to travel agencies set up in that State;

(n) printed forms and tickets, bills of lading, way-bills and other commercial or office documents which have been used;

(o) official printed forms from national or international authorities, and printed matter conforming to international standards sent for distribution by associations of countries other than the Member State of importation to corresponding associations located in that State;

(p) photographs, slides and 'sterotype mats for photographs, whether or not captioned, sent to press agencies to newspaper or magazine publishers;

(q) articles listed in the Annex to this Directive which are produced by the United Nations or one of its specialized agencies whatever the use for which they are intended;

(r) collectors' pieces and works of art of an educational, scientific or cultural character which are not intended for sale and which are imported by museums, galleries and other institutions approved by the competent authorities of the Member States for the purpose of duty-free admission of these goods. The exemption is granted only on condition that the articles in question are imported free of charge or, if they are imported against payment, that they are not supplied by a taxable person.

Chapter IV

Ancillary materials for the stowage and protection of goods during their transport

Article 80

The various materials such as rope, straw, cloth, paper and cardboard, wood and plastics which are used for the stowage and proteciton — including heat protection — of goods during their transport to the territory of a Member State, shall be exempt on admission, provided that:

(a) they are not normally re-usable; and

(b) the consideration paid for them forms part of the taxable amount as defined in Article 11 of Directive 77/388/EEC.

Chapter V

Litter, fodder and feedingstuffs for animals during their transport

Article 81

Litter, fodder and feedingstuffs of any description put on board the means of transport used to convey animals to the territory of a Member State for the purpose of distribution to the said animals during the journey shall be exempt on admission.

Chapter VI

Fuel and lubricants present in land motor vehicles

Article 82

1. Subject to Articles 83 to 85, the following shall be exempt on admission:

(a) fuel contained in the standard tanks of private and commercial motor vehicles and motor cycles;

(b) fuel contained in portable tanks carried by private motor vehicles and motor cycles, with a maximum of 10 litres per vehicle and without prejudice to national provisions on the holding and transport of fuel.

2. For the purposes of paragraph 1:

(a) 'commercial motor vehicle' means any motorized road vehicle which by its type of construction and equipment is designed for and capable of transporting, whether for payment or not:

— more than nine persons including the driver,

— goods,

and any road vehicle for a special purpose other than transport as such;

(b) 'private motor vehicle' means any motor vehicle not covered by the definition in (a);

(c) 'standard tanks' means the tanks permanently fixed by the manufacturer to all motor vehicles of the same type as the vehicle in question and whose permanent fitting enables fuel to be used directly, both for the purpose of propulsion and, where appropriate, for the operation of a refrigeration system.

Gas tanks fitted to motor vehicles designed for the direct use of gas as a fuel shall also be considered to be standard tanks.

Article 83

Member States may limit application of the exemption in respect of fuel contained in the standard tanks of commercial motor vehicles to 200 litres per vehicle per journey.

Article 84

Member States may limit the amount of fuel exempt on admission in the case of:

(a) commercial motor vehicles engaged in international transport

— from third countries to their frontier zone, to a maximum depth of 25 km as the crow flies,

— from another Member State to their frontier zone, to a maximum depth of 15 km as the crow flies,

where such transport consists of journeys made by persons residing in that zone;

(b) private motor vehicles belonging to persons residing in the frontier zone, to a maximum depth of 15 km as the crow flies, contiguous with a third country.

Article 85

Fuel exempt on admission may not be used in a vehicle other than that in which it was imported nor be removed from that vehicle and stored, except during necessary repairs to that vehicle, or transferred for a consideration or free of charge by the person granted the exemption.

Non-compliance with the preceding paragraph shall give rise to application of the import value added tax relating to the products in question at the rate in force on the date of such non-compliance, on the basis of the type of goods and the value ascertained or accepted on that date by the competent authorities.

Article 86

The exemption referred to in Article 82 shall also apply to lubricants carried in motor vehicles and required for their normal operation during the journey in question.

Chapter VII

Goods for the construction, upkeep or ornamentation of memorials to, or cemeteries for, war victims

Article 87

Exemption from tax shall be granted in respect of goods imported by organizations authorized for that purpose by the competent authorities, for use in the construction, upkeep or ornamentation of cemeteries and tombs of, and memorials to, war victims of a country other than the Member State of importation who are buried in the latter State.

Chapter VIII

Coffins, funerary urns and ornamental funerary articles

Article 88

The following shall be exempt on admission:

(a) coffins containing bodies and urns containing the ashes of deceased persons, as well as the flowers, funeral wreaths and other ornamental objects normally accompanying them;

(b) flowers, wreaths and other ornamental objects brought by persons resident in a Member State other than that of importation, attending a funeral or coming to decorate graves in the territory of a Member State of importation provided these importations do not reflect, by either their nature or their quantity, any commercial intent.

TITLE XII

GENERAL AND FINAL PROVISIONS

Article 89

Where this Directive provides that the granting of an exemption shall be subject to the fulfilment of certain conditions, the person concerned shall, to the satisfaction of the competent authorities, furnish proof that these conditions have been met.

Article 90

1. The exchange value in national currency of the ECU to be taken into consideration for the purposes of this Directive shall be fixed once a year. The rates to be applied shall be those obtaining on the first working day in October and shall take effect on 1 January the following year.

2. Member States may round off the amounts in national currency arrived at by converting the amounts in ECU.

3. Member States may continue to apply the amounts of the exemptions in force at the time of the annual adjustment provided for in paragraph 1, if conversion of the amounts of the exemptions expressed in ECU leads, before the rounding-off provided for in paragraph 2, to an alteration of less than 5 % in the exemption expressed in national currency.

Article 91

No provision of this Directive shall prevent Member States from continuing to grant:

(a) the privileges and immunities granted by them under cultural, scientific or technical cooperation agreements concluded between them or with third countries;

(b) the special exemptions justified by the nature of frontier traffic which are granted by them under frontier agreements concluded between them or with countries outside the Community.

Article 92

Until the establishment of Community exemptions upon importation, Member States may retain the exemptions granted to:

(a) merchant-navy seamen;

(b) workers returning to their country after having resided for at least six months outside the importing Member State on account of their occupation.

Article 93

1. Member States shall bring into force the measures necessary to comply with this Directive with effect from 1 July 1984.

2. Member States shall inform the Commission of the measures which they adopt to give effect to this Directive, indicating, where the case arises, those measures which they adopt by simple reference to identical provisions of Regulation (EEC) No 918/83.

Article 94

This Directive is addressed to the Member States.

Done at Brussels, 28 March 1983.

For the Council

The President

J. ERTL

ANNEX

Visual and auditory materials of an educational, scientific or cultural character

CCT heading No	Description
37.04	Sensitized plates and film, exposed but not developed, negative or positive: A. Cinematograph film: ex II. Other positives, of an educational, scientific or cultural character
ex 37.05	Plates, unperforated film and perforated film (other than cinematograph film), exposed and developed, negative or positive, of an educational, scientific or cultural character
37.07	Cinematograph film, exposed and developed, whether or not incorpprating sound track or consisting only of sound track, negative or positive: B. II. Other positives: ex a) Newsreels (with or without sound track) depicting events of current news value at the time of importation, and imported up to a limit of two copies of each subject for copying purposes ex b) Other: — Archival film material (with or without sound track) intended for use in connection with newsreel films — Recreational films particularly suited for children and young people — Other films of an educational, scientific or cultural character
49.11	Other printed matter including printed pictures and photographs: ex B. Other: — Microcards or other information storage media required in computerized information and documentation services, of an educational, scientific or cultural character — Wall charts designed solely for demonstration and education
ex 90.21	Instruments, apparatus or models, designed solely for demonstrational purposes (for example, in education or exhibition), unsuitable for other uses: — Patterns, models and wall charts of an educational, scientific or cultural character, designed solely for demonstration and education — Mock-ups or visualizations of abstract concepts such as molecular structures or mathematical formulae
92.12	Gramophone records and other sound or similar recordings, matrices for the production of records, prepared record blanks, film for mechanical sound recording, prepared tapes, wires, strips and like articles of a kind commonly used for sound or similar recording: ex B. Recorded: — Of an educational, scientific or cultural character

CCT heading No	Description
Various	— Holograms for laser projection — Multi-media kits — Materials for programmed instruction, including materials in kit form, with the corresponding printed materials

COUNCIL DIRECTIVE

of 28 March 1983

on tax exemptions within the Community for certain means of transport temporarily imported into one Member State from another

(83/182/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 99 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas the freedom of movement of Community residents within the Community is hampered by the taxation arrangements applied to the temporary importation of certain means of transport for private or business use;

Whereas the elimination of the obstacles resulting from these taxation arrangements is particularly necessary if an economic market having features similar to those of a domestic market is to be established;

Whereas it must be possible in certain cases to establish definitely whether or not a person is in fact resident in a given Member State;

Whereas it appears desirable in a first stage to limit the scope of this Directive concerning certain means of transport to those acquired or imported in accordance with the general conditions of taxation in force on the domestic market of a Member State.

HAS ADOPTED THIS DIRECTIVE:

Article 1

Scope

1. Member States shall, under the conditions laid down below, exempt temporary imports from another Member State of motor-driven road vehicles (including their trailers), caravans, pleasure boats, private aircraft, bicycles, tricycles and saddle-horses from:

— turnover tax, excise duties and any other consumption tax,

— the taxes listed in the Annex hereto.

2. The exemption referred to in paragraph 1 shall also apply to the normal spare parts, accessories and equipment imported with these means of transport.

3. Commercial vehicles shall be excluded from the exemption referred to in paragraph 1.

4. (a) The scope of this Directive shall not extend to the temporary importation of private vehicles, caravans, pleasure boats, private aircraft, bicycles and tricycles for private use which have not been acquired or imported in accordance with the general conditions of taxation in force on the domestic market of a Member State and/or which are subject by reason of their exportation to any exemption from or refund of turnover tax, excise duty or any other consumption tax.

For the purposes of this Directive, means of transport acquired under the conditions referred to in Article 15 (10) of Directive 77/388/EEC (4) shall be deemed to have satisfied the general conditions of taxation in force on the domestic market of a Member State; however, Member States may deem means of transport acquired under the conditions referred to in the third indent of the said point 10 not to have satisfied these conditions.

(b) The Council, acting unanimously on a proposal from the Commission, shall, before 31 December 1985, adopt Community rules on the grant of exemption to the means of transport referred to in the first paragraph of (a) above, taking into account the need to avoid cases of double taxation and the need to ensure normal, full taxation of means of transport for private use.

(1) OJ No C 267, 21. 11. 1975, p. 8.
(2) OJ No C 53, 8. 3. 1976, p. 37.
(3) OJ No C 131, 12. 6. 1976, p. 50.

(4) OJ No L 145, 13. 6. 1977, p. 1.

Article 2

Definitions

For the purpose of this Directive:

(a) 'commercial vehicle' means any road vehicle which, by its design or equipment, is suitable for and intended for transporting, whether for payment or not:

— more than nine persons, including the driver,

— goods,

as well as any road vehicle for special use other than transport as such;

(b) 'private vehicle' means any road vehicle, including its trailer, if any, other than those referred to in subparagraph (a);

(c) 'business use' of a means of transport means the use thereof in the direct exercise of an activity carried out for consideration or financial gain;

(d) 'private use' means any use other than business use.

Article 3

Temporary importation of certain means of transport for private use

Where a private vehicle, caravan, pleasure boat, private aircraft, tricycle or bicycle is imported temporarily, the item imported shall be exempt from the taxes specified in Article 1 for a period, continuous or otherwise, of not more than six months in any 12 months, provided that:

(a) the individual importing such goods:

(aa) has his normal residence in a Member State other than the Member State of temporary importation;

(bb) employs the means of transport in question for his private use;

(b) the said means of transport is not disposed of or hired out in the Member State of temporary importation or lent to a resident of that State. However, private vehicles belonging to a car-hire firm having its head office in the Community may be re-hired to non-residents with a view to being re-exported, if they are in the country as a result of a hire contract which ended in that country. They may also be returned by an employee of the car-hire firm to the Member State where they were originally hired, even if such employee is resident in the Member State of temporary importation.

Article 4

Temporary importation of private vehicles for business use

1. A private vehicle imported temporarily for business use shall be exempt from the taxes specified in Article 1, provided that:

(a) the individual importing the private vehicle:

(aa) has his normal residence in a Member State other than the Member State of temporary importation;

(bb) does not use the vehicle within the Member State of temporary importation in order to carry passengers for hire or material reward of any kind, or for the industrial and/or commercial transport of goods, whether for reward or not;

(b) the private vehicle is not disposed of, hired out or lent in the Member State of temporary importation;

(c) the private vehicle has been acquired or imported in accordance with the general conditions of taxation in force on the domestic market of the Member State of normal residence of the user and is not subject by reason of its exportation to any exemption from or refund of turnover tax, excise duty or any other consumption tax.

This condition shall be presumed to be satisfied if the private vehicle bears a standard registration plate of the Member State of registration, all types of temporary plate being excluded.

However, in the case of private vehicles registered in a Member State where the issue of standard registration plates is not conditional upon compliance with the general conditions of taxation in force on the domestic market, users shall be required to produce any appropriate evidence as proof of payment of consumption taxes.

2. The exemption provided for in paragraph 1 shall apply for a period, whether continuous or not, of:

— seven months in any 12, in the case of private vehicles imported by one of the commercial

intermediaries referred to in Article 3 of Directive 64/224/EEC (1),

— six months in any 12 in all other cases.

Article 5

Specific cases of temporary importation of private vehicles

1. Private vehicles imported temporarily shall be exempt from the taxes referred to in Article 1 in the following cases:

(a) where a private vehicle registered in the country of normal residence of the user is used regularly for the journey from his residence to his place of work in an undertaking in the territory of another Member State, and vice versa. Exemptions under this head shall not be subject to any time limit;

(b) where a student uses a private vehicle registered in the Member State of his normal residence in the territory of another Member State in which the student is residing for the sole purpose of pursuing his studies.

2. Grant of the exemptions provided for in paragraph 1 shall be subject to the sole condition that the provisions of Article 4 (1) (a), (b) and (c) are satisfied.

Article 6

Exemption for the temporary importation of saddle-horses on horse-riding excursions

Saddle-horses imported temporarily into a Member State shall be exempt for three months from the taxes specified in Article 1, provided that:

(a) the said horses enter the territory of the Member State of temporary importation for the purposes of and/or in the course of horse-riding excursions by their riders. Member States may exclude from this exemption the importation by their residents of horses carried on board means of transport;

(b) exemption is requested not later than the time of entry into the territory of the Member State of temporary importation. Where exemption is requested before temporary importation, the rider may be exempted from the requirement to enter the territory of the Member State of temporary importation via a frontier post;

(c) the said horses are not hired out, lent, or disposed of to a third party in the Member State of temporary importation, or used for purposes other than that of the excursion.

Article 7

General rules for determining residence

1. For the purposes of this Directive, 'normal residence' means the place where a person usually lives, that is for at least 185 days in each calendar year, because of personal and occupational ties, or, in the case of a person with no occupational ties because of personal ties which show close links between that person and the place where he is living.

However, the normal residence of a person whose occupational ties are in a different place from his personal ties and who consequently lives in turn in different places situated in two or more Member States shall be regarded as being the place of his personal ties, provided that such person returns there regularly. This last condition need not be met where the person is living in a Member State in order to carry out a task of a definite duration. Attendance at a university or school shall not imply transfer of normal residence.

2. Individuals shall give proof of their place of normal residence by any appropriate means, such as their identity card or any other valid document.

3. Where the competent authorities of the Member State of importation have doubts as to the validity of a statement as to normal residence made in accordance with paragraph 2, or for the purpose of certain specific controls, they may request any additional information or evidence.

Article 8

Supplementary rules for determination of residence in the case of business use of a private vehicle

In exceptional cases where, despite the supply of the additional information referred to in Article 7 (3) to the competent authorities of the Member State of importation, serious doubts still remain, temporary importation of a private vehicle for business use may be made conditional upon payment of a security.

However, when the user of the vehicle produces evidence that he has his normal residence in another

(1) OJ No 56, 4. 4. 1964, p. 869/64.

Member State, the authorities of the Member State of temporary importation shall refund the security within two months following the date on which the evidence is produced.

Article 9

Special arrangements

1. Member States may maintain and/or introduce more liberal arrangements than those provided for in this Directive. In particular, they may, at the request of the importer, permit temporary importation for a period longer than those referred to in Articles 3 and 4 (2). In the latter event, Member States may levy the taxes mentioned in the Annex for periods exceeding those laid down by this Directive. Member States may also permit the private vehicles referred to in the second sentence of Article 3 (b) to be re-hired to a resident of the Member State of importation with a view to their re-exportation.

2. Member States may under no circumstances apply, in pursuance of this Directive, tax exemptions within the Community which are less favourable than those which they would grant in respect of means of transport originating in a third country.

3. The Kingdom of Denmark is authorized to maintain the rules applying in that country in connection with normal residence according to which any person, including a student, in respect of the case referred to in Article 5 (1) (b), is regarded as having his normal residence in Denmark if he lives there for a year or 365 days in a period of 24 months.

However, to avoid double taxation:

— where, as a result of the application of these rules, a person is considered to have two residences, the normal residence of that person is situated where his spouse and children live,

— in similar cases, the Kingdom of Denmark shall consult with the other Member State concerned to decide which of the two residences should be used for the purposes of taxation.

Before a period of three years has elapsed, the Council, on the basis of a report by the Commission, will re-examine the derogation covered by this paragraph and, if necessary, will adopt measures, on a proposal from the Commission based on Article 99 of the Treaty, to ensure the abolition of the derogation.

4. Member States shall inform the Commission of the arrangements referred to in paragraph 1 at the same time as they fulfil the obligations laid down in Article 10. The Commission shall subsequently communicate these arrangements to the other Member States.

Article 10

Final provisions

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 January 1984. They shall forthwith inform the Commission thereof.

2. Where the practical application of this Directive gives rise to difficulties, the competent authorities of the Member States concerned shall take the necessary decisions by mutual agreement, particularly in the light of the Conventions and Community Directives on mutual assistance.

3. Member States shall see to it that they communicate to the Commission the texts of the main subsequent provisions of national law which they adopt in the field governed by this Directive.

4. Every two years the Commission shall, after consulting the Member States, submit to the Council and the European Parliament a report on the application of this Directive in the Member States, with particular reference to the concept of 'normal residence', and shall propose the necessary Community provisions to bring about the establishment of a uniform system in all the Member States.

Article 11

This Directive is addressed to the Member States.

Done at Brussels, 28 March 1983.

For the Council

The President

J. ERTL

ANNEX

List of taxes referred to in the second indent of Article 1(1)

BELGIUM

— Taxe de circulation sur les véhicules automobiles
(Arrêté royal du 23 novembre 1965 portant codification des dispositions légales relatives aux taxes assimilées aux impôts sur les revenus — Moniteur belge du 18 janvier 1966)

— Verkeersbelasting op de autovoertuigen
(Koninklijk Besluit van 23 november 1965 houdende codificatie van de wettelijke bepalingen betreffende de met de inkomstenbelastingen gelijkgestelde belastingen — Belgisch Staatsblad van 18 januari 1966)

DENMARK

— Vægtafgift af motorkøretøjer (Bekendtgørelse Nr. 658 af 28. december 1977)

FEDERAL REPUBLIC OF GERMANY

— Kraftfahrzeugsteuer (Kraftfahrzeugsteuergesetz — 1979)
Kraftfahrzeugsteuer (Durchführungsverordnung — 1979)

GREECE

— Τέλη κυκλοφορίας (Ν. 2367/53 ως ισχύει σήμερα)

FRANCE

— Taxe différentielle sur les véhicules à moteur
(Loi n° 77-1467 du 30 décembre 1977)

— Taxe sur les véhicules d'une puissance fiscale supérieure à 16 CV immatriculés dans la catégorie des voitures particulières
(Loi de finances 1979 — Article 1007 du code général des impôts

IRELAND

— Motor vehicle excise duties
(Finance (Excise Duties) (Vehicles) Act 1952 as amended, and Section 94, Finance Act 1973 as amended)

ITALY

— Tassa sulla circolazione degli autoveicoli
(TU delle leggi sulle tasse automobilistiche approvato con DPR n. 39 del 5 febbraio 1953 e successive modificazioni)

LUXEMBOURG

— Taxe sur les véhicules automoteurs
Loi allemande du 23 mars 1935 (Kraftfahrzeugsteuergesetz) maintenue en vigueur par l'arrêté grand-ducal du 26 octobre 1944, modifiée par la loi du 4 août 1975 et les règlements grand-ducaux du 15 septembre 1975 et du 31 octobre 1975

NETHERLANDS

— Motorrijtuigenbelasting (wet op de motorrijtuigenbelasting 21 juli 1966, Stb 332 — wet van 18 december 1969/Stb 548)

UNITED KINGDOM

— Vehicle excise duty (Vehicles (Excise) Act 1971)

No L 105/64 Official Journal of the European Communities 23. 4. 83

COUNCIL DIRECTIVE

of 28 March 1983

on tax exemptions applicable to permanent imports from a Member State of the personal property of individuals

(83/183/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 99 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas, in order that the people of the Member States become more aware of the existence of the European Community, further measures to benefit private individuals should be taken in order to create conditions in the Community similar to those in a domestic market;

Whereas, in particular, the tax obstacles to the importation by private individuals of personal property into one Member State from another Member State are such as to hinder the free movement of persons within the Community; whereas, therefore, these obstacles should be eliminated as far as possible by the introduction of tax exemptions;

Whereas these tax exemptions may apply only to imports of goods which are not of a commercial or speculative nature; whereas the application of the exemptions should therefore be made subject to limits and conditions,

HAS ADOPTED THIS DIRECTIVE:

TITLE I

GENERAL PROVISIONS

Article 1

Scope

1. Every Member State shall, subject to the conditions and in the cases hereinafter set out, exempt personal property imported permanently from another Member State by private individuals from turnover tax, excise duty and other consumption taxes which normally apply to such property.

2. Specific and/or periodical duties and taxes connected with the use of such property within the country, such as for instance motor vehicle registration fees, road taxes and television licences, are not covered by this Directive.

Article 2

Conditions relating to property

1. For the purposes of this Directive, 'personal property' means property for the personal use of the persons concerned or the needs of their household. Such property must not, by reason of its nature or quantity, reflect any commercial interest, nor be intended for an economic activity within the meaning of Article 4 of Directive 77/388/EEC (4). However, the tools or instruments necessary to the person concerned for the exercise of his trade or profession shall also be treated as personal property.

2. The exemption for which Article 1 makes provision shall be granted for personal property:

(a) which has been acquired under the general conditions of taxation in force in the domestic market of one of the Member States and which is not the subject, on the grounds of exportation, of any exemption or any refund of turnover tax, excise duty or any other consumption tax. For the purposes of this Directive, the goods acquired under the conditions referred to in Article 15 (10) of Directive 77/388/EEC shall be deemed to have met these conditions;

(b) of which the person concerned has had the use, in the Member States from which it is being exported, for a period of at least:

— six months before the change of residence in the case of motor-driven vehicles (including their

(1) OJ No C 267, 21. 11. 1975, p. 11.
(2) OJ No C 53, 8. 3. 1976, p. 39.
(3) OJ No C 131, 12. 6. 1976, p. 49.

(4) OJ No L 145, 13. 6. 1977, p. 1.

trailers), caravans, mobile homes, pleasure boats and private aircraft,

— three months before the change of residence or the setting up of a secondary residence in the case of other property.

However, for the goods referred to in the second sentence of (a), Member States may increase the above periods to 12 months.

3. The competent authorities shall demand proof that the conditions in paragraph 2 have been satisfied in the case of motor-driven vehicles (including their trailers), caravans, mobile homes, pleasure boats and private aircraft. In the case of other property, they shall demand such proof only where there are grave suspicions of fraud.

Article 3

Import conditions

The importation of the property may be carried out at one or more times within the periods laid down in Articles 7, 8, 9 and 10 respectively.

Article 4

Obligations subsequent to importation

The property imported shall not be disposed of, hired out or lent during the period of 12 months following its importation free of duty, except in circumstances duly justified to the satisfaction of the competent authorities of the Member State of importation.

Article 5

Specific conditions for certain types of property

1. Member States may provide that the goods listed in Article 4 (1) of Directive 69/169/EEC (1), as last amended by Directive 82/443/EEC (2), may be imported free of duty only up to the quantities laid down in that Article for travel between Member States.

2. The exemption on the importation of riding horses, motor-driven road vehicles (including trailers), caravans, mobile homes, pleasure boats and private aircraft shall be granted only if the private individual transfers his normal residence to the Member State of importation.

Article 6

General rules for determining residence

1. For the purposes of this Directive, 'normal residence' means the place where a person usually lives, that is for at least 185 days in each calendar year, because of personal and occupational ties or, in the case of a person with no occupational ties, because of personal ties which show close links between that person and the place where he is living.

However, the normal residence of a person whose occupational ties are in a different place from his personal ties and who consequently lives in turn in different places situated in two or more Member States shall be regarded as being the place of his personal ties, provided that such person returns there regularly. This last condition need not be met where the person is living in a Member State in order to carry out a task of a definite duration. Attendance at a university or school shall not imply transfer of normal residence.

2. Individuals shall give proof of their place of normal residence by any appropriate means, such as their identity card or any other valid document.

3. Where the competent authorities of the Member State of importation have doubts as to the validity of a statement as to normal residence made in accordance with paragraph 2, or for the purpose of certain specific controls, they may ask for any information they require or for additional proof.

TITLE II

IMPORTATION OF PERSONAL PROPERTY IN CONNECTION WITH A TRANSFER OF NORMAL RESIDENCE

Article 7

1. The exemption for which Article 1 makes provision shall be granted, subject to the conditions laid down in Articles 2 to 5, in respect of personal property imported by a private individual when transferring his normal residence.

2. The last of the property must be imported not later than 12 months after the transfer of the normal residence.

(1) OJ No L 133, 4. 6. 1969, p. 6.
(2) OJ No L 206, 14. 7. 1982, p. 35.

TITLE III

IMPORTATION OF PERSONAL PROPERTY IN CONNECTION WITH THE FURNISHING OR RELINQUISHMENT OF A SECONDARY RESIDENCE

Article 8

1. The exemption for which Article 1 makes provision shall be granted, subject to the conditions laid down in Articles 2 to 5, for personal property imported by a private individual to furnish a secondary residence.

This exemption shall be granted only where:

(i) the person concerned is the owner of the secondary residence or is renting it for a period of at least 12 months;

(ii) the property imported corresponds to the normal furniture of the secondary residence.

2. The exemption shall also be granted, subject to the conditions mentioned in paragraph 1, where, following the relinquishment of a secondary residence, property is imported to the normal residence or to another secondary residence, provided that the property in question has actually been in the possession of the person concerned, and that he has had the use of it, for a period of at least 12 months.

The last of the property must be imported not later than 12 months after the secondary residence has been relinquished.

Article 4 shall not apply where property is re-imported.

TITLE IV

IMPORTATION OF PROPERTY ON MARRIAGE

Article 9

1. By derogation from the second indent of Article 2 (2) (b), but without prejudice to the other provisions contained in Articles 2 to 5, any person shall on marrying be entitled to exemption from the taxes referred to in Article 1 when importing into the Member State to which he intends to transfer his normal residence personal property which he acquired or which came into his possession less than three months previously, provided that:

(a) such importation takes place within a period beginning two months before the marriage date envisaged and ending four months after the actual marriage date;

(b) the person concerned provides evidence that his marriage has taken place or that the necessary preliminary formalities for the marriage have been put in hand.

2. Exemption shall also be granted in respect of presents customarily given on the occasion of a marriage which are sent to a person fulfilling the conditions laid down in paragraph 1 by persons having their normal place of residence in a Member State other than that of importation. The exemption shall apply to presents of a unit value not exceeding 200 ECU. Member States may, however, grant exemption where 200 ECU is exceeded, provided that the value of each present exempted does not exceed 1 000 ECU.

3. Member States may make the granting of such exemption dependent on the provision of an adequate guarantee, where property is imported before the date of the marriage.

4. Where the individual fails to provide proof of his marriage within four months of the date given for such marriage, the taxes shall be due on the date of importation.

TITLE V

IMPORTATION OF THE PERSONAL PROPERTY OF A DECEASED PERSON, ACQUIRED BY INHERITANCE

Article 10

1. By way of derogation from Articles 2 (2) and (3) and 4 and 5 (2), but without prejudice to the other provisions contained in Articles 2, 3 and 5, any private individual who acquires by inheritance (*causa mortis*) the ownership or the beneficial ownership of personal property of a deceased person which is situated within a Member State shall be entitled to exemption from the taxes referred to in Article 1 when importing such property into another Member State in which he has a residence, provided that:

(a) such individual provides the competent authorities of the Member State with a declaration issued by a notary or other competent authority in the Member State of exportation that the property he is importing was acquired by inheritance;

(b) the property is imported not more than two years after the date on which such individual enters into possession of the property.

TITLE VI

FINAL PROVISIONS

Article 11

1. Until the entry into force of the Community tax rules adopted pursuant to Article 14 (2) of Directive 77/388/EEC, Member States shall endeavour to reduce as far as possible the formalities for imports by private individuals within the limits and subject to the conditions laid down in this Directive and shall endeavour to avoid importation formalities entailing controls which result in substantial unloading and reloading at the frontier.

2. Member States may retain and/or introduce more liberal conditions for granting tax exemptions than those laid down in this Directive, with the exception of those laid down in Article 2 (2).

3. Without prejudice to Article 2 (2), Member States may not, by virtue of this Directive, apply within the Community tax exemptions less favourable than those which they accord to imports by private individuals of personal property from third countries.

Article 12

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 January 1984 at the latest. They shall forthwith inform the Commission thereof. However, the Hellenic Republic may retain its taxation system currently in force, provided that double taxation is avoided, until the common VAT system is introduced.

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, and in particular any resulting from the application of the provisions of Article 11 (2) and (3). The Commission shall inform the other Member States of the latter provisions.

3. Every two years the Commission shall, after consulting the Member States, send the Council and the European Parliament a report on the implementation of this Directive in the Member States.

Article 13

This Directive is addressed to the Member States.

Done at Brussels, 28 March 1983.

For the Council

The President

J. ERTL

No L 108/12 Official Journal of the European Communities 26. 4. 83

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 16 March 1983

concerning the Kingdom of Denmark adopted pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax

(Only the Danish text is authentic)

(83/193/EEC, Euratom, ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (1),

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (2), and in particular the first subparagraph of Article 9 (3), the second subparagraph of Article 11 (1) and Article 13 (2) thereof,

Whereas the Commission, pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77, adopted, for 1979, Decision 80/384/EEC, Euratom, ECSC (3), for 1980, Decision 81/1017/Euratom, ECSC, EEC (4) and, for 1981, Decision 82/760/ECSC, EEC, Euratom (5);

Whereas the Kingdom of Denmark has requested the extension of the earlier Decisions; whereas it is able to determine only approximately the base relating to services supplied by undertakers and cremation services but excluding supplies of goods incidental thereto, referred to in ex point 6 of Annex F to Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (6), hereinafter called 'the Sixth Directive', and Denmark should therefore be authorized to use approximate estimates for calculating the VAT-own-resources base; whereas, furthermore, the three-year period during which the Member States may grant the right to opt for taxation under Article 28 (3) (c) of the Sixth Directive in conjunction with Annex G expired on 1 October 1981 and the relevant authorization should not therefore be extended;

Whereas for the early years of implementation of the Sixth Directive authorizations should be granted annually;

(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No L 336, 27. 12. 1977, p. 8.
(3) OJ No L 94, 14. 4. 1980, p. 42.
(4) OJ No L 367, 23. 12. 1981, p. 33.
(5) OJ No L 320, 17. 11. 1982, p. 20.
(6) OJ No L 145, 13. 6. 1977, p. 1.

Whereas the Advisory Committee on Own Resources has approved the report recording the opinions of its members on this Decision,

HAS ADOPTED THIS DECISION:

Article 1

For the purpose of calculating the VAT-own-resources base for 1982, the Kingdom of Denmark is authorized, pursuant to the first indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, not to take into account the following categories of transactions referred to in Annex F to the Sixth Directive:

1. Services supplied by authors, artists, performers, lawyers and other members of the liberal professions, other than the medical and paramedical professions, in so far as these are not the services specified in Annex B to Second Council Directive 67/228/EEC (1):

   Services supplied by authors, artists and performers (Annex F, ex point 2);

2. Management of credit and credit guarantees by a person or body other than the one which granted the credit (Annex F, point 13).

Article 2

For the purpose of calculating the VAT-own-resources base for 1982, the Kingdom of Denmark is authorized, pursuant to the second indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, to use approximate estimates for calculating the base in respect of the following transactions referred to in Annex F to the Sixth Directive:

1. Services supplied by undertakers and cremation services other than the supply of goods related thereto (Annex F, ex point 6);
2. Transactions relating to the safekeeping and management of shares (Annex F, ex point 15).

Article 3

For the purpose of calculating the VAT-own-resources base for 1982, the Kingdom of Denmark is authorized, pursuant to Article 5 (3) (b) of Regulation (EEC, Euratom, ECSC) No 2892/77, to apply to the information derived from the returns made by newspaper publishers a corrective factor calculated on the basis of appropriate data obtained from the statistics of the publishing industry.

Article 4

This Decision is addressed to the Kingdom of Denmark.

Done at Brussels, 16 March 1983.

For the Commission

Christopher TUGENDHAT

Vice-President

(1) OJ No 71, 14. 4. 1967, p. 1303/67.

No L 108/14 Official Journal of the European Communities 26. 4. 83

COMMISSION DECISION

of 16 March 1983

concerning the Kingdom of the Netherlands adopted pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax

(Only the Dutch text is authentic)

(83/194/EEC, Euratom, ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (1),

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (2), and in particular the first subparagraph of Article 9 (3), the second subparagraph of Article 11 (1) and Article 13 (2) thereof,

Whereas the Commission, pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77, adopted, for 1979, Decision 80/822/EEC, Euratom, ECSC (3), for 1980, Decision 81/440/Euratom, ECSC, EEC (4) and, for 1981, Decision 82/761/ECSC, EEC, Euratom (5);

Whereas the Kingdom of the Netherlands has requested the extension of the earlier Decisions; whereas the three-year period during which the Member States may grant the right to opt for taxation under Article 28 (3) (c) in conjunction with Annex G to Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (6), hereinafter called 'the Sixth Directive', expired on 31 December 1981 and the relevant authorization should not therefore be extended; whereas the VAT-own-resources base relating to the services of experts in connection with insurance claim assessments, which are exempt in the Netherlands, may well affect the total VAT base and the Netherlands should therefore be authorized to use approximate estimates for calculating this base; whereas, from 1982 onwards, the Netherlands authorities will have appropriate data from which to calculate the base relating to transactions by small firms enjoying graduated tax relief in accordance with Article 24 (2) of the Sixth Directive and so the authorization to use approximate estimates for calculating this base should not be extended for 1982;

Whereas, for the early years of implementation of the Sixth Directive, authorizations should be granted annually;

Whereas the Advisory Committee on Own Resources has approved the report in which are recorded the opinions of its members on this Decision,

HAS ADOPTED THIS DECISION:

Article 1

For the purpose of calculating the VAT-own-resources base for 1982, the Kingdom of the Netherlands is authorized, pursuant to the first indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, not to take into account the following categories of transactions referred to in Annexes E and F to the Sixth Directive:

1. Transactions referred to in Article 13 B (g) of the Sixth Directive:

   Supply of buildings or parts thereof and of the land on which they stand other than those covered by Article 4 (3) (a), where these supplies are effected by taxable persons entitled to deduction of input taxes for the buildings in question (Annex E, ex point 11);

(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No L 336, 27. 12. 1977, p. 8.
(3) OJ No L 239, 12. 9. 1980, p. 23.
(4) OJ No L 168, 25. 6. 1981, p. 24.
(5) OJ No L 320, 17. 11. 1982, p. 22.
(6) OJ No L 145, 13. 6. 1977, p. 1.

2. Services supplied by authors, artists, performers, lawyers and other members of the professions, other than the medical and paramedical professions, in so far as these are not services specified in Annex B to Second Council Directive 67/228/EEC (1):

   Services supplied by writers, composers, journalists and press photographers (Annex F, ex point 2);

3. Transactions carried out by blind persons or workshops for the blind, provided these exemptions do not give rise to significant distortion of competition (Annex F, point 7).

Article 2

For the purpose of calculating the VAT-own-resources base for 1982 the Kingdom of the Netherlands is authorized, pursuant to the second indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, to use approximate estimates for calculating the base in respect of the following transactions referred to in Annex F of the Sixth Directive:

1. Services supplied by undertakers and cremation services, together with the supply of goods related thereto (Annex F, point 6);

2. Treatment of animals by veterinary surgeons (Annex F, point 9);

3. Services of experts in connection with insurance claim assessments (Annex F, point 11);

4. The transport by ferry-boat of passengers and goods accompanying passengers (Annex F, ex point 17);

5. The services of travel agents referred to in Article 26 of the Sixth Directive, and those of travel agents acting in the name and on account of the traveller for journeys within the Community (Annex F, point 27).

Article 3

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 16 March 1983.

For the Commission

Christopher TUGENDHAT

Vice-President

(1) OJ No 71, 14. 4. 1967, p. 1303/67.

COMMISSION DECISION

of 16 March 1983

concerning the United Kingdom adopted pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax

(Only the English text is authentic)

(83/195/EEC, Euratom, ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (1),

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (2), and in particular the first subparagraph of Article 9 (3), the second subparagraph of Article 11 (1) and Article 13 (2) thereof,

Whereas the Commission, pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77, adopted, for 1979, Decision 80/774/EEC, Euratom, ECSC (3), for 1980, Decision 81/1017/Euratom, ECSC, EEC (4) and, for 1981, Decision 82/810/ECSC, EEC, Euratom (5);

Whereas the United Kingdom has requested the extension of the earlier Decisions; whereas, since transactions concerning gold other than gold for industrial use, that is, the sale of gold coins which are legal tender, were made subject to VAT in the United Kingdom from 1 April 1982, the authorization to use approximate estimates to calculate the base for such transactions should apply only until 31 March 1982; whereas no statistics are available on the supply of goods for the fuelling and provisioning of pleasure craft and aircraft for private use proceeding outside the national territory but the United Kingdom authorities have estimated the value of these transactions and the United Kingdom should therefore be authorized to use approximate estimates to calculate the relevant VAT-own-resources base;

Whereas, for the early years of implementation of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (6), hereinafter called 'the Sixth Directive', authorizations should be granted annually;

Whereas, the Advisory Committee on Own Resources has approved the report recording the opinions of its members on this Decision,

HAS ADOPTED THIS DECISION:

Article 1

For the purpose of calculating the VAT-own-resources base for 1982, the United Kingdom is authorized, pursuant to the first indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, not to take into account the following category of transactions referred to in Annex E to the Sixth Directive:

Transactions referred to in Article 13 A (1) (p) of the Sixth Directive:

The supply of transport services of a commercial nature by duly authorized bodies for sick or injured persons in vehicles specially designed for the purpose (Annex E, ex point 6).

Article 2

For the purpose of calculating the VAT-own-resources base for 1982, the United Kingdom is authorized, pursuant to the second indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, to use approximate estimates for calculating the base in respect of the following categories of transactions referred to in Annex F to the Sixth Directive:

1. Goods for the fuelling and provisioning of pleasure boats and aircraft for private use proceeding outside the national territory (Annex F, points 21 and 22);

(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No L 336, 27. 12. 1977, p. 8.
(3) OJ No L 222, 23. 8. 1980, p. 11.
(4) OJ No L 367, 23. 12. 1981, p. 33.
(5) OJ No L 343, 4. 12. 1982, p. 16.
(6) OJ No L 145, 13. 6. 1977, p. 1.

2. Transactions concerning gold other than gold for industrial use : sales of gold coins which are legal tender (Annex F, ex point 26) for which the authorization expires on 31 March 1982.

Article 3

This Decision is addressed to the United Kingdom.

Done at Brussels, 16 March 1983.

For the Commission

Christopher TUGENDHAT

Vice-President

Application of Article 27 of the Sixth Council Directive of 17 May 1977 on value added tax (1)

(Authorization of a derogation under a draft agreement between the Federal Republic of Germany and Luxembourg)

(83/333/EEC)

In letters dated 6 and 17 December 1982, the German and Luxembourg Governments informed the Commission, pursuant to the above provisions, of their intention to introduce a measure derogating from the Sixth Directive, with a view, as part of a draft agreement between Germany and Luxembourg, to VAT being levied on all construction and maintenance work for a frontier bridge by the German authorities alone since the Federal Republic of Germany will assume responsibility for these operations.

The Commission informed the other Member States, by letter dated 17 January 1983, of the requests submitted by the German and Luxembourg Governments.

In accordance with Article 27 (4) of the Sixth Directive, the Council decision authorizing this derogation is to be deemed to have been adopted if, within two months of the other Member States being informed, as described above, neither the Commission nor any Member State has requested that the matter be raised by the Council.

As neither the Commission nor any Member State has requested that the matter be raised within the time limit, the Council decision is deemed to have been adopted on 18 March 1983.

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(1) OJ No L 145, 13. 6. 1977, p. 1.

No L 359/8 Official Journal of the European Communities 22. 12. 83

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 1 December 1983

on the facilitation of physical inspections and administrative formalities in respect of the carriage of goods between Member States

(83/643/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 43, 75, 84 and 100 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas the European Council has on a number of occasions underlined the need to reinforce and develop further the internal market; whereas increased efforts are needed to reduce to the minimum the formalities and inspection at internal Community frontiers;

Whereas, on 26 March 1981 (4), the Council approved a priority programme under the common transport policy, concerning the period up to the end of 1983, of which to facilitate the crossing of frontiers was one of 10 priorities; whereas the Council called upon the Commission to submit proposals on this subject;

Whereas, on 12 June 1978, the Council approved a priority programme for air transport, one priority being facilitation;

Whereas waiting times at frontier crossing-points affect the flow of transport between Member States, lead to an increase in transport costs, which is passed on in the end price of the goods carried, and thus have a negative effect on intra-Community trade;

Whereas waiting times at frontiers may have a negative effect on the working conditions of those employed in the transport sector, in particular in road transport and inland waterway transport;

Whereas these waiting times at frontier crossing-points are caused by transport-related factors and other factors;

Whereas waiting times could be reduced by organizing inspections and formalities and inspections, which are justified under Community law, more efficiently;

Whereas, in order to ensure a smoother flow of means of transport engaged in the carriage of goods between Member States, it is desirable to centralize the various

(1) OJ No C 127, 18. 5. 1982, p. 6.
(2) OJ No C 42, 14. 2. 1983, p. 67.
(3) OJ No C 90, 5. 4. 1983, p. 22.
(4) OJ No C 171, 11. 7. 1981, p. 1.

inspections in one place, preferably the place of departure or destination of the goods;

Whereas it is advisable that, in intra-Community trade, Member States should carry out inspection by means of spot-checks, except in duly justified circumstances;

Whereas the flow of goods traffic between Member States may be improved by application of the principle of recognition of inspections carried out and of documents drawn up by the competent authorities of another Member State which prove that the goods meet the conditions applicable in the Member State of import or transit;

Whereas it is desirable to attain, through cooperation and concerted effort between the various inspection services and the different types of users, better exchange of information on the various problems which arise at certain frontier crossing-points, in order to seek joint solutions likely to improve the situation at the crossing-points in question;

Whereas a minimum of business hours at frontier posts and appropriate organization of the hours during which inspection services operate may reduce waiting times in traffic passing through;

Whereas the establishment of express lanes reserved for means of transport travelling empty or carrying goods under a customs transit procedure is likely to bring about a reduction in waiting times at the frontier;

Whereas it is also necessary to ensure that Member States do not introduce any new inspections or formalities that would render inoperative the measures taken to facilitate the crossing of frontiers,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. Without prejudice to individual provisions in force in the framework of general or specific Community rules, this Directive shall apply to physical inspections and administrative formalities, hereinafter referred to as 'inspections and formalities', concerning the transport of goods which have to cross:

— an internal frontier within the Community, or

— an external frontier, where carriage between Member States involves crossing a third country.

2. This Directive shall not apply to inspections or formalities for ships and aircraft as means of transport; however, it shall apply to vehicles and goods carried by the said means of transport.

Article 2

Member States shall take the necessary measures to ensure that in the course of any carriage operation the various inspections and formalities are carried out with the minimum of delay necessary and:

— as far as possible, in one place,

— with the inspections being carried out by means of spot checks, except in duly justified circumstances.

Article 3

1. For the purposes of implementing this Directive and without prejudice to the possibility of carrying out spot checks, the importing Member States or the Member States through which the goods are passing in transit shall recognize the inspections carried out and the documents drawn up by the competent authorities of another Member State which show that the goods comply with the requirements of the Member State of import or transit.

Member States shall cooperate to combat fraudulent practices and the forgery of certificates.

2. Member States shall send each other and the Commission the information necessary in order to carry out the inspections and draw up the documents required. In cooperation with the Member States, the Commission shall prepare a manual containing the salient points regarding the methods of inspection and analysis applied in each Member State.

Article 4

1. In order to seek appropriate solutions to problems arising at common frontiers, Member States shall take the measures necessary to extend bilateral cooperation between the various departments carrying out inspections and formalities on either side.

2. The cooperation referred to in paragraph 1 shall cover *inter alia:*

— the harmonization of the business hours of the various departments concerned,

— the arrangement of frontier posts,

— the conversion of frontier offices into juxtaposed or combined inspection offices, where possible.

3. Member States shall provide for the possibility of informal consultation at local and, if appropriate, national level between representatives of the various departments involved in inspections and formalities and of carriers, customs agents, persons engaged in services ancillary to transport and transport users.

Article 5

1. Where the volume of traffic so warrants, Member States shall ensure that frontier posts are open, except when traffic is prohibited, so that:

— frontiers can be crossed 24 hours a day with the corresponding inspections and formalities, by vehicles travelling unladen or carrying goods under a customs transit procedure, save where frontier inspection is necessary to prevent the spread of disease,

— inspections and formalities relating to the movement of means of transport and of goods which are not being carried under a customs transit procedure may be carried out daily from Monday to Friday during an uninterrupted period of at least 10 hours and on Saturday during an uninterrupted period of at least six hours, except where these days are public holidays.

2. Where general compliance with the periods referred to in the second indent of paragraph 1 poses problems for veterinary services, Member States shall ensure that, with at least 12 hours' notice from the carrier, a veterinary expert is available during these periods at the time of the frontier crossing; in the case of the transport of live animals, however, this notice may be increased to at least 18 hours.

3. Where several frontier posts are situated in the same port area, Member States may derogate from paragraph 1 provided that the other posts in that area are sufficient to clear goods and vehicles effectively in accordance with that paragraph.

4. For the frontier posts referred to in paragraph 1, and under the conditions laid down by the Member States, the competent authorities of the Member States shall ensure that, if specifically requested during business hours and for sound reasons, inspections and formalities can be carried out, as an exception, outside business hours; where relevant, services so rendered shall be paid for.

Article 6

Member States shall take the necessary measures to ensure that waiting time caused by the various inspections and formalities does not exceed the time required for their proper completion. To this end, they shall organize the business hours of the departments which are to carry out inspections and formalities and the staff available in such a way as to reduce waiting time in the flow of traffic to a minimum.

Article 7

Member States shall endeavour to establish at frontier posts, where technically possible and justified by the volume of traffic, express lanes reserved for means of transport travelling unladen or carrying goods under a customs transit procedure.

Article 8

With a view to resolving difficulties with inspections or formalities within the meaning of this Directive, a Member State may request consultations with another Member State. If these consultations do not enable the difficulties to be resolved, a Member State may inform the Commission so that the latter can submit such solutions as it deems appropriate to resolve the difficulties in question.

Article 9

Where, in exceptional and justified cases, a Member State intends to introduce a new inspection or formality, it shall inform the Commission thereof.

The Member State concerned shall ensure that the measures taken to facilitate the crossing of frontiers are not rendered inoperative through the application of such new inspections or formalities.

Article 10

For the first time before 1 July 1986, and thereafter every two years, Member States shall forward to the Commission the particulars covered by a questionnaire from the Commission concerning any provisions and practical measures found necessary in the course of the preceding two years with a view to ensuring more efficient organization of the inspections and formalities.

On the basis of these particulars, the Commission shall report every two years to the Council on the implementation of this Directive.

Article 11

1. Member States shall, after consulting the Commission, bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 1984 at the latest.

2. However, Member States may, after consulting the Commission, postpone application of Article 5 until 31 December 1986.

3. Each Member State shall communicate to the Commission the texts of the provisions it adopts in order to implement this Directive.

Article 12

This Directive is addressed to the Member States.

Done at Brussels, 1 December 1983.

For the Council

The President

N. AKRITIDIS

FIFTEENTH COUNCIL DIRECTIVE

of 19 December 1983

on the harmonization of the laws of the Member States relating to turnover taxes — deferment of the introduction of the common system of value added tax in the Hellenic Republic

(83/648/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

Having regard to the opinion of the Economic and Social Committee (2),

Whereas the Greek Government informed the Commission on 19 July 1983 that, for technical and economic reasons, it would be unable to introduce the common system of value added tax by 1 January 1984, the date set by Article 145 in conjunction with Annex XII of the 1979 Act of Accession ; whereas the Greek Government consequently requests that the introduction of value added tax be deferred for two years ;

Whereas the present Greek tax system is such that the Greek Government's request should be complied with for the technical reasons it has given,

HAS ADOPTED THIS DIRECTIVE :

Article 1

At the earliest opportunity, and by 1 January 1986 at the latest, the Hellenic Republic shall put into effect the measures necessary to comply with Directives 67/227/EEC (3), 67/228/EEC (4), 77/388/EEC (5) and any other Directive, adopted or to be adopted, relating to the common system of value added tax.

Article 2

The Commission shall, by 31 December 1984, present the Council and the European Parliament with a report on the progress made by the Hellenic Republic in respect of the work of putting into effect the Directives referred to in Article 1.

Article 3

This Directive is addressed to the Hellenic Republic.

Done at Brussels, 19 December 1983.

For the Council

The President

G. VARFIS

(1) Opinion delivered on 16 December 1983 (not yet published in the Official Journal).
(2) Opinion delivered on 15 December 1983 (not yet published in the Official Journal).

(3) OJ No 71, 14. 4. 1967, p. 1301/67.
(4) OJ No 71, 14. 4. 1967, p. 1303/67.
(5) OJ No L 145, 13. 6. 1977, p. 1.

No L 370/62 Official Journal of the European Communities 31. 12. 83

COUNCIL DIRECTIVE

of 22 December 1983

prolonging the derogation accorded to Ireland relating to the rules governing turnover tax and excise duty applicable in international travel

(83/651/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof,

Having regard to the proposal from the Commission,

Whereas Council Directive 78/1032/EEC (1) granted Ireland a derogation from Directive 69/169/EEC (2), as last amended by Directive 82/443/EEC (3), in respect of the unit value of goods to be imported with tax exemption;

Whereas the Irish Government has requested that the above derogation be prolonged;

Whereas the tax system at present applied in Ireland does not yet allow full application of the tax exemption granted to travellers coming from other Member States without the risk of serious economic consequences;

Whereas, therefore, Ireland should be authorized to continue to apply exceptional arrangements for a further limited period,

HAS ADOPTED THIS DIRECTIVE:

Article 1

The second indent of Article 5 (1) of Directive 78/1032/EEC is hereby replaced by the following:

'— Ireland may, until 30 June 1984, exclude from tax exemption goods whose unit value is in excess of 77 ECU'.

Article 2

Member States other than Ireland shall take the necessary steps to permit the remission of tax, in accordance with the procedures referred to in Article 6 of Directive 69/169/EEC, on goods imported into Ireland which are excluded from exemption.

Article 3

Ireland shall communicate to the Commission details of the measures which it adopts to implement this Directive.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 22 December 1983.

For the Council

The President

C. VAITSOS

(1) OJ No L 366, 12. 12. 1978, p. 28.
(2) OJ No L 133, 4. 6. 1969, p. 6.
(3) OJ No L 206, 14. 7. 1982, p. 35.

23. 12. 83 Official Journal of the European Communities No L 360/1

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC, EURATOM, ECSC) No 3625/83

of 19 December 1983

amending Regulation (EEC, Euratom, ECSC) No 2892/77 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (1), and in particular Article 6 (2) thereof,

Having regard to the proposal from the Commission (2),

Having regard to the opinion of the European Parliament (3),

Having regard to the opinion of the Court of Auditors (4),

Whereas Regulation (ECSC, EEC, Euratom) No 3550/82 (5) extended, until 31 December 1985, Regulation (EEC, Euratom, ECSC) No 2892/77 (6);

Whereas the material application of Regulation (EEC, Euratom, ECSC) No 2892/77 has revealed, since its entry into force, the need to adapt and supplement certain provisions on a number of points without awaiting the adoption of definitive uniform arrangements;

Whereas the statistical analysis of the data necessary for calculating the weighted average rate should be supplemented and improved;

Whereas, on the one hand, the procedures for presenting the annual summary account should be supplemented and, on the other hand, the necessary procedures laid down for correcting the said summary;

Whereas provision should be made for the Commission to present, before 31 December 1984, a report on the application of Regulation (EEC, Euratom, ECSC) No 2892/77, as amended by this Regulation, at the same time as the guidelines relating to the definitive uniform arrangements levying VAT own resources,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC, Euratom, ECSC) No 2892/77 is hereby amended in accordance with the following Articles.

Article 2

Article 2 (3) is hereby replaced by the following:

'3. By way of derogation from paragraph 1, Member States shall have the option of leaving out of account, for the purpose of determining VAT own resources, transactions performed by taxable persons whose annual turnover, determined according to the rules laid down in Article 24 (4) of Directive 77/388/EEC, does not exceed 10 000 ECU converted into the national currencies at the average rate for the financial year concerned. Member States may round upwards or downwards, by up to 10 %, the amounts which result from the conversion.'

Article 3

Article 3 is hereby amended as follows:

(a) The following is added to the first paragraph:

'..., informing the Commission of the method they propose to apply.'

(b) The second paragraph is deleted.

(c) The latest paragraph is replaced by the following:

'The Commission shall communicate the information referred to in the first and second paragraphs to the Member States.'

(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No C 200, 4. 8. 1982, p. 12.
(3) OJ No C 13, 17. 1. 1983, p. 218.
(4) OJ No C 151, 9. 6. 1983, p. 6.
(5) OJ No L 373, 31. 12. 1982, p. 1.
(6) OJ No L 336, 27. 12. 1977, p. 8.

Article 4

In Article 4 (3), 'in the absence of any such returns, owing to failure of the taxable person to fulfil his obligations, from the estimated assessment made by the competent authority of the Member State' is hereby replaced by 'derived from the estimated assessment made by the competent authority of the Member State'.

Article 5

Article 6 is hereby replaced by the following:

'*Article 6*

For a given year, and without prejudice to Article 9, the VAT own resources basis shall be calculated by dividing the total net VAT revenue collected by a Member State by the rate at which VAT is levied during the same year.

If several VAT rates are applied in a Member State, the VAT own resources basis shall be calculated by dividing the total net VAT revenue collected by the weighted average rate of VAT. In this case, the Member State shall determine the weighted average rate, calculated to four decimal places, by applying the common method of calculation defined in Article 7. This weighted average shall be expressed per hundred currency units.'

Article 6

Article 7 is hereby replaced by the following:

'*Article 7*

1. In order to calculate the weighting of the various rates as referred to in Article 6, the Member State shall break down, by rate of VAT applied, all transactions which are taxable under its national legislation and which do not give rise to deduction of VAT in the hands of a purchaser or customer, taking into account Article 17 of Directive 77/388/EEC, and consumption on the farm by flat-rate farmers and their direct sales to final consumers.

The VAT rates used for the purposes of such calculation shall be those which, in accordance with paragraph 7, affect the VAT revenue collected during the year in question.

Transactions which are subject, pursuant to Article 28 (2) of Directive 77/388/EEC, to an exemption with reimbursement of the taxes paid at the previous stage shall be regarded as zero-rated transactions.

2. The breakdown by rate of VAT shall be applied to the following categories:

(a) the following categories of transaction, subject to non-deductible VAT:

- final consumption of households on the territory referred to in Article 3 of Directive 77/388/EEC for the Member State in question, if not covered by subparagraph (b), and intermediate consumption of private non-profit institutions and public services,
- intermediate consumption of other sectors,
- gross fixed-capital formation of public services,
- gross fixed-capital formation of other sectors,
- improved and unimproved building land, as defined in Article 4 (3) (b) of Directive 77/388/EEC;

(b) consumption on the farm by flat-rate farmers and their direct sales to final consumers.

3. For the purposes of the breakdown referred to in paragraph 2, transactions by the flat-rate farmers referred to in subparagraph (b) thereof shall be subject to a rate equivalent to the charge on inputs.

4. The breakdown of transactions by statistical category shall be effected by means of data taken from national accounts prepared in accordance with the European system of integrated economic accounts (ESA). In order to calculate the VAT own resources basis for any given financial year, reference shall be made to the national accounts relating to the penultimate year preceding that financial year.

A Member State may be authorized, pursuant to the procedure provided for in Article 13, to use data relating to another year, but which may not be prior to the fifth year preceding the financial year in question.

5. For the purpose of identifying transactions subject to non-deductible VAT and effecting the breakdown by rate of VAT, Member States may, in addition, refer to data taken from sources other than the ESA and, in the first instance, from internal national accounts, if they provide the necessary breakdown, or in the absence of such accounts, to any other appropriate source.

6. In order to determine the weighting of each rate, Member States shall calculate the ratio between the value of the transactions to which that rate applies and the aggregate value of all relevant transactions.

7. Should a Member State amend the VAT rate applicable to all or some transactions or the tax treatment for certain transactions in such a way as to affect the VAT revenue collected, it shall calculate a new weighted average rate. The new weighted average rate shall be applied to the revenue derived from application of the amended rate or tax treatment.

By way of derogation from the foregoing subparagraph, the Member State may calculate a single weighted average rate. To this end, transactions in respect of which the rate or treatment has been changed shall be allocated to the old and new rates or to the old and new treatments *pro rata temporis*, by taking account of the average period of time elapsing between entry into force of the new rate or treatment and the collection of revenue resulting therefrom ; this calculation shall apply to the whole of the year in question. This average period may be rounded up to the full month.'

Article 7

Article 9 is hereby amended as follows :

(a) In the third indent of paragraph 2, 'paragraphs 1 (a) and (2)' is replaced by 'paragraph 1 (a)'.

(b) The second subparagraph of paragraph 3 is deleted.

(c) The following second subparagraph is added to paragraph 4 :

'The preceding subparagraph shall apply, in relation to the second subparagraph of Article 17 (6) of Directive 77/388/EEC, only in respect of the purchase of petroleum products and passenger cars used for business purposes.'

Article 8

Article 10 is hereby amended as follows :

(a) The second subparagraph of paragraph 1 is replaced by the following :

'The summary account shall contain all the necessary data used to determine the basis which are required for the checks referred to in Article 12. It shall indicate separately the basis resulting from the transactions referred to in Articles 5 (1) to (3), 8 and 9 (1) to (4).'

(b) The third subparagraph of paragraph 1 is deleted.

(c) At the end of the first indent of the first subparagraph of paragraph 2, 'or any other continuous 12-month period to be determined by the Member States' is deleted.

(d) At the end of the second indent of the first subparagraph of paragraph 2, 'or any other continuous 12-month period to be determined by the Member States' is deleted.

(e) The third subparagraph of paragraph 2 is deleted.

(f) Paragraph 4 is deleted.

Article 9

The following Articles 10a and 10b are hereby inserted :

'*Article 10a*

Member States shall forward to the Commission by 30 April each year an estimate of the VAT own resources basis for the following financial year.

Article 10b

1. The corrections to the summary accounts relating to previous financial years referred to in Article 10 (1) shall be made by the Commission in agreement with the Member State.

In the absence of such agreement, and following a renewed examination, the Commission shall take the steps it considers necessary to ensure the correct application of this Regulation.

The corrections to the accounts shall be incorporated in a summary estimate adopted on 30 June.

2. No further corrections may be made to the annual summary account referred to in Article 10 (1) after three years have elapsed from the end of a given financial year, unless they concern points previously notified either by the Commission or by the Member State concerned.'

Article 10

The first and second subparagraphs of Article 11 (1) are hereby replaced by the following :

'1. Member States shall inform the Commission by 30 April of each financial year of the solutions they propose to adopt in order to determine the VAT own resources basis for each of the categories of transaction referred to in Articles 5 (2) and (3), 8 and 9 (1) to (4), indicating, where applicable, the nature of the data which they consider appropriate and an estimate of the value of the assessment basis for each of these categories of transaction.

They shall inform the Commission of the modifications they intend to make to the solutions adopted under Article 13 for previous financial years, subject to the same conditions.'

Article 11

The following paragraph 3 is hereby added to Article 12:

'3. Following the checks referred to in paragraph 1, the annual summary account for a given financial year shall be corrected in accordance with Article 10b.'

Article 12

Article 13 (2) is hereby amended as follows:

(a) The beginning of the first subparagraph shall read as follows:

'Member States applying for the authorization provided for in Article 5 (3), 7 (4) or 9 (3) shall refer ...' (remainder unchanged).

(b) The beginning of the second subparagraph shall read as follows:

'The Commission representative shall submit to the Committee as soon as possible and not later than 31 December of this financial year, a draft of the decision ...'

Article 13

In Article 14 the following subparagraph is hereby inserted between the second and third subparagraphs:

'The Commission will present, before 31 December 1984, a report on the application of this Regulation, at the same time as it presents proposals in respect of a uniform method for determining the assessment basis. In this connection, account shall be taken of possible disparities in administrative burdens incurred by taxable persons, or by the public administration.'

Article 14

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities*.

It shall apply with effect from 1 January 1983.

However, it shall not apply to the drawing up or correction of the summaries indicating the total definitive amount of the VAT resources basis for the years preceding 1983.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 19 December 1983.

For the Council

The President

G. VARFIS

4. 1. 84 Official Journal of the European Communities No L 2/1

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 3/84

of 19 December 1983

introducing arrangements for movement within the Community of goods sent from one Member State for temporary use in one or more other Member States

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas the introduction of arrangements for movement within the Community under which goods sent from one Member State may move and be used temporarily in one or more other Member States before being re-entered in the Member State of departure is a means of simplifying the formalities relating to their carriage and temporary stay;

Whereas, in order to achieve this objective, the arrangements must cover the widest possible range of goods, taking account, however, of the risk of fraud;

Whereas, in order to reduce the cost of intra-Community movement operations and to create conditions that resemble as closely as possible the conditions under which such movements take place within a Member State, users of the procedure can be exempted from the requirement to lodge a guarantee;

Whereas, in view of the exemption from the requirements to lodge a guarantee, the Member States in whose territory the goods are temporarily used should have the power to exert reasonable surveillance over them and to recover any charges payable;

Whereas the setting up of the arrangements for an experimental period will permit an assessment of the practical consequences; whereas the provisions should be re-examined in the light of experience at the end of a period of three years;

Whereas it is essential to guarantee uniform application of the provisions of this Regulation and, to this end, to lay down a Community procedure under which the detailed rules for execution can be adopted in due course; whereas it is necessary to set up a committee to organize close and effective cooperation between the Member States and the Commission in this field;

Whereas this Regulation does not affect the provisions of the Treaty establishing the European Coal and Steel Community, in particular as regards the rights and obligations of the Member States, the powers of the institutions of the said Community and the rules laid down by the Treaty for the functioning of the common market in coal and steel; whereas, taking into account the Treaty establishing the European Economic Community, in particular Article 232 thereof, this Regulation shall apply to the goods listed in Annex I to the Treaty establishing the European Coal and Steel Community,

HAS ADOPTED THIS REGULATION:

TITLE I

General provisions

Article 1

1. Without prejudice to other Community provisions, the arrangements governing the movement of goods within the Community, hereinafter referred to as the 'arrangements', shall apply to the goods listed in the Annex, sent or transported from one Member State for the purposes of temporary use in one or more other Member States, which, pursuant to the Treaties and the rules deriving therefrom, are not subject to

(1) OJ No C 227, 8. 9. 1981, p. 3.
(2) OJ No C 40, 15. 2. 1982, p. 35.
(3) OJ No C 343, 31. 12. 1981, p. 1.

prohibitions or restrictions and which are intended to be re-entered without alteration to the territory of the Member State of departure.

2. In order to benefit from the arrangements, the goods referred to in Article 1 must:

(a) satisfy the conditions laid down in Articles 9 and 10 of the Treaty establishing the European Economic Community or, in the case of goods within the province of the Treaty establishing the European Coal and Steel Community, be in free circulation; and

(b) have complied with the provisions in the Member State of departure, relating to turnover taxes, excise duties and any other tax on consumption; and

(c) have not benefited, by virtue of their exportation, from any exemption from turnover tax, excise duties or any other tax on consumption.

Article 2

For the purposes of this Regulation:

(a) 'beneficiary' means the natural or legal person who, whether or not through a representative, carries out an intra-Community movement operation;

(b) 'Member State of departure' means the Member State in whose territory the goods are produced at the customs office, referred to in (c);

(c) 'office of departure' means the customs office where the intra-Community movement operation starts;

(d) 'office of entry' means the customs office at which the goods enter the territory of the Member State where they are to be temporarily used, hereinafter referred to as the 'Member State of temporary use';

(e) 'office of exit' means the customs office at which the goods leave the territory of a Member State in which they have been temporarily used;

(f) 'office of transit' means:

— the customs office at which the goods enter the territory of a Member State for the purpose of a transit operation proper or leave it following such an operation,

— the customs office at the point of exit from the Community for goods leaving the territory of the Community in the course of a transit operation proper by crossing a frontier between a Member State and third country.

Article 3

This Regulation shall not preclude:

— the use, at the discretion of the person concerned, of the procedure introduced by the Customs Convention on the ATA carnet for the temporary admission of goods (ATA Convention) done at Brussels on 6 December 1961,

— arrangements between Member States introducing simpler procedures applicable to frontier zone traffic,

— the application of simpler procedures, used particularly for the temporary importation of travellers' personal effects, packages, private cars and other means of transport,

— the use, at the request of the person concerned, of a national procedure in the event of production to the office of entry of goods not covered by an ATA carnet or by the Community movement carnet, referred to in Article 5.

Article 4

1. Only natural or legal persons established in the Member State of departure shall be eligible for the arrangements.

However, the competent authorities of the Member State of departure shall in principle disqualify from benefit under the arrangements persons who, to their knowledge, have committed a serious infringement of customs or fiscal legislation.

The competent authorities of the Member State of temporary use may revoke benefit under the arrangements in the instances referred to in the second subparagraph. They shall inform the competent authorities of the Member State of departure of the grounds for such revocation.

2. Persons benefiting under the arrangements shall:

(a) ensure that the procedure referred to in Title II is correctly carried out and that the arrangements are settled before expiry of the period of validity of the carnet referred to in Article 5;

(b) if failure to comply with the conditions laid down in this Regulation is ascertained or suspected, supply the competent authorities of the Member States, whose territory the goods have entered, with any necessary document or information concerning the goods subject to the movement arrangements;

(c) at the first written request of the competent authorities, pay any charges which have fallen due following an irregularity or infringement, unless he can prove that this request is unfounded.

TITLE II

Procedure

Article 5

1. For the purposes of movement under the arrangements, goods shall be covered by a Community movement carnet, hereinafter referred to as 'carnet', issued by the competent authorities of the Member State of departure.

2. The carnet shall be so designed as to enable the competent authorities in the Member States whose territory is to be entered during an intra-Community movement operation to control, in particular by means of transit, entry and exit sheets, the dispatch, transit, entry, temporary use, return to and re-entry of the goods into the Member State of departure, and must include the commitment entered into by the beneficiary to make the payment provided for in Article 4 (2) (c).

3. The specimen of the movement carnet shall be drawn up in accordance with the procedure laid down in Article 15.

4. Issue of the said carnet shall not give rise to the payment of any fees other than those resulting from the cost of its production.

Article 6

1. The carnet, duly completed and signed by the beneficiary, shall be produced at the office of departure at the same time as the goods it covers so that a check can be made that the goods match the details on the sheet constituting a temporary clearance certificate and the carnet can be validated.

This carnet constitutes an internal Community transit document, testifying to the Community nature of the goods to which it applies.

2. The competent authorities of the Member State of departure shall:

— take such measures for identification as they deem necessary,

— fix the period of validity of the carnet, which may not exceed 12 months,

— retain the sheet constituting a temporary clearance certificate.

3. The competent authorities of the Member States whose territory is entered during the intra-Community movement operation may at the request of the beneficiary extend the period of validity of the carnet on the basis of the expected duration and nature of the temporary use operation planned.

Article 7

1. When goods covered by a carnet merely cross the territory of a Member State without being temporarily used there, the beneficiary shall deliver a 'transit' sheet of the carnet to the offices of transit.

2. Paragraph 1 above shall not apply to goods:

— transported under cover of an International Consignment Note, an International Express Parcels Consignment Note, or a Community Transit Transfer Note,

— transported by air under cover of an airwaybill, or

— sent through the post.

3. The duration of the transit operation shall be laid down in accordance with the rules relating to Community transit.

Article 8

1. When goods covered by a carnet are to be temporarily used on the territory of a Member State, the beneficiary shall produce them and the carnet at the offices of entry and exit of the Member State and deliver to the said offices, as appropriate, the entry or exit sheet, after completing the boxes relating to the places where temporary use is planned and the duration and nature of such use.

2. By way of derogation from paragraph 1, goods transported or dispatched under the conditions described in Article 7 (2) must be produced, as is appropriate, to the customs offices with jurisdiction over the station of arrival or of departure, the airport of arrival or of departure, or the post office of arrival or of departure of the Member State on the territory of which the goods will be or have been used temporarily.

The entry and exit sheets must be returned to the respective offices.

3. The office of entry shall determine the period for which the goods may remain in the territory of the Member State within which it operates on the basis of the length of stay planned by the beneficiary, although this period may not exceed the period of validity of the carnet, unless the said period has been extended in accordance with Article 6 (3).

The competent authorities of the Member State of temporary use shall take every measure to ensure the control of the use of the goods on the territory of that Member State and of their exit before the expiry of the period laid down in the first subparagraph.

Article 9

1. The carnet must be produced in each Member State concerned whenever the competent authorities so request.

2. Entry and exit operations may be carried out through any office within the limits of its competence during its opening hours.

3. When goods need to enter the territory of a Member State without temporary-use operations occurring there, the transit sheets may be deposited at any office which is open as an office of transit.

Article 10

The competent authorities of the Member State in whose territory the goods are temporarily used may, at the request of the beneficiary:

(a) extend the period during which the goods may remain in their territory, within the period of validity of the carnet;

(b) allow the goods to be temporarily in their territory at one or more places other than that or those stated on the carnet;

(c) by way of derogation from Article 1 (1), authorize repairs, including the replacement of defective parts, to the equipment temporarily used in their territory.

To this end, they shall enter the necessary particulars on the carnet.

TITLE III

Termination and administrative collaboration

Article 11

1. The arrangements shall terminate when the goods have been produced again with the carnet before expiry of its period of validity at any competent customs office in the Member State of departure.

2. The arrangements shall also terminate when the goods:

(a) have been totally destroyed or irretrievably lost by reason of the nature of the goods themselves or because of unforeseeable circumstances or *force majeure*; or

(b) have been exported to a third country or placed in a free zone or under a customs warehousing procedure; or

(c) have been destroyed under the control of the competent authorities; or

(d) have been released for home use, in so far as Community or national provisions so allow.

Article 12

1. Where it is found that, in the course of or in connection with a movement operation, an irregularity has been committed in a particular Member State, recovery of any charges payable shall be effected by that Member State.

2. When a Member State on whose territory an irregularity has been committed in the course of or in connection with a movement operation cannot recover the charges due, the competent authorities of the Member State of departure shall recover on behalf of the other Member State the amount which the beneficiary is obliged to pay in accordance with Article 4 (2) (c). Such recovery shall be carried out by the Member State in accordance with its laws, regulations or administrative practices relating to the recovery of fiscal debts. If the beneficiary contests the claim against him, he must address his appeal in the Member State which has made the request for recovery. No action for recovery shall be taken until the appeal proceedings have been concluded.

Alternatively the Member State which is recovering the debt may apply the provisions of Directive 76/308/EEC (1), as last amended by Directive 79/1071/EEC (2).

3. Where at any moment during a movement operation the office of departure of the carnet notes an irregularity, it shall without delay inform the competent authorities of the Member State or Member States concerned thereof and communicate to them the documents and information relating to that irregularity.

TITLE IV

Provisions on the Committee on Arrangements for the Temporary Movement of Goods

Article 13

1. A Committee on Arrangements for the Temporary Movement of Goods within the Community (hereinafter referred to as 'the Committee') is hereby set up, consisting of representatives of the Member States with a representative of the Commission as chairman.

2. The Committee shall adopt its own rules of procedure.

Article 14

The Committee may examine any question relating to the application of this Regulation submitted to it by its chairman either on his own initiative or at the request of the representative of a Member State.

Article 15

1. The necessary provisions for implementing this Regulation and in particualr for the specimen of the carnet shall be adopted in accordance with the procedure defined in paragraphs 2 and 3.

2. The representative of the Commission shall submit to the Committee a draft of the provisions to be adopted. The Committee shall deliver an opinion on the draft within a time limit set by the chairman, having regard to the urgency of the matter. Decisions shall be taken by a majority of 45 votes, the votes of the Member States being weighted as provided for in Article 148 (2) of the Treaty. The chairman shall not vote.

3. (a) The Commission shall adopt the provisions envisaged if they are in accordance with the opinion of the Committee.

(1) OJ No L 73, 19. 3. 1976, p. 18.
(2) OJ No L 331, 27. 12. 1979, p. 10.

(b) If the provisions envisaged are not in accordance with the opinion of the Commttee or if no opinion is delivered, the Commission shall without delay submit to the Council a proposal with regard to the provisions to be adopted. The Council shall act by a qualified majority.

(c) If, within three months of the proposal being submitted to it, the Council has not acted, the proposed provisions shall be adopted by the Commission.

TITLE V

Final provisions

Article 16

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities.*

It shall apply from 1 July 1985.

It shall be applicable for an initial experimental period until 30 June 1988 unless extended for a limited period to be decided upon, on a proposal from the Commission, by the Council acting by a qualified majority.

Article 17

1. Before the expiry of a period of three years as from the date of entry into force of this Regulation, the Commission shall submit a report to the Council on the application of the arrangements, based on information supplied by the Member States.

2. On the basis of the report referred to in paragraph 1, the Council, acting in accordance with Article 235 of the Treaty, shall decide on the definitive application of this Regulation and on any amendments to be made to its provisions, in particular for the purpose of simplifying the arrangements or modifying the Annex.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 19 December 1983.

For the Council

The President

G. VARFIS

No L 40/30 Official Journal of the European Communities 11. 2. 84

COUNCIL DECISION

of 6 February 1984

authorizing the Italian Republic to derogate until 31 December 1983 from the value added tax arrangements in the context of aid to earthquake victims in southern Italy

(84/87/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 99 thereof,

Having regard to the proposal from the Commission,

Whereas the Italian Government has requested a further extension of the derogation from the Sixth Directive 77/388/EEC (1), which was granted by Decisions 81/890/EEC (2) and 82/424/EEC (3); whereas this derogation consists in the exemption from value added tax for certain activities with reimbursement at the preceding stage;

Whereas it has become apparent that a further extension is necessary, in particular to regulate activities in operation; whereas this extension should in any event be limited to 31 December 1983,

HAS ADOPTED THIS DECISION:

Article 1

In Article 1 of Decision 82/424/EEC, '31 December 1982' is hereby replaced by '31 December 1983'.

Article 2

This Decision is addressed to the Italian Republic.

Done at Brussels, 6 February 1984.

For the Council

The President

M. ROCARD

(1) OJ No L 145, 13. 6. 1977, p. 1.
(2) OJ No L 322, 11. 11. 1981, p. 40.
(3) OJ No L 184, 29. 6. 1982, p. 26.

No L 104/18 Official Journal of the European Communities 17. 4. 84

COUNCIL DIRECTIVE

of 10 April 1984

amending Directive 72/464/EEC on taxes other than turnover taxes which affect the consumption of manufactured tobacco

(84/217/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

Having regard to the opinion of the Economic and Social Committee (2),

Whereas, under Directive 72/464/EEC (3), as last amended by Directive 82/877/EEC (4), the transition from one stage of harmonization to the next shall be decided on by the Council on a proposal from the Commission;

Whereas the second stage of harmonization, introduced by Directive 77/805/EEC (5), expired on 31 December 1983;

Whereas the special criteria applicable during the third stage are dealt with in a proposal for a Directive presented by the Commission; the Council has not yet acted on this proposal;

Whereas, in these circumstances, an additional extension of the second stage is necessary; whereas, a period of two years would seem sufficient to allow the Council to decide on further harmonization,

HAS ADOPTED THIS DIRECTIVE:

Article 1

In Article 10a (1) of Directive 72/464/EEC, '31 December 1983' is hereby replaced by '31 December 1985'.

Article 2

This Directive is addressed to the Member States.

Done at Luxembourg, 10 April 1984.

For the Council

The President

C. CHEYSSON

(1) OJ No C 104, 16. 4. 1984, p. 122.
(2) OJ No C 57, 29. 2. 1984, p. 5.
(3) OJ No L 303, 31. 12. 1972, p. 1.
(4) OJ No L 369, 29. 12. 1982, p. 36.
(5) OJ No L 338, 20. 12. 1977, p. 22.

No L 117/42 Official Journal of the European Communities 3. 5. 84

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 30 April 1984

amending Directives 69/169/EEC and 83/2/EEC on the harmonization of provisions laid down by law, regulation or administrative action relating to exemption from turnover tax and excise duty on imports in international travel

(84/231/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas it is important to facilitate travel and tourism within the Community and, to this end, to relax the controls on persons at frontiers in order that citizens can appreciate more precisely the positive effects of the existence of the Community;

Whereas, from this point of view, there should be an increase in the exemption from turnover tax and excise duty, the level of which as laid down by Council Directive 69/169/EEC (4), as last amended by Directive 82/443/EEC (5), remains lower than the real value of the original exemption as a result of the rise in the cost of living throughout the Community;

Whereas the Hellenic Republic should be granted a period of time in which to carry out a two-stage increase in the value of the exemption to which travellers coming from other Member States of the Community are entitled;

Whereas Directive 83/651/EEC (6) granted Ireland an extension of the derogation from Directive 69/169/EEC in respect of the unit value of goods imported free of tax;

Whereas the tax system at present in force in Ireland does not authorize full application of the tax exemption granted to travellers coming from other Member States of the Community because of economic consequences that might result from it;

Whereas, therefore, Ireland should be authorized to continue to apply these exceptional arrangements as long as the amount of the exemption remains at the level set by this Directive;

Whereas Directive 83/2/EEC (7) granted Denmark a derogation from Directive 69/169/EEC in respect of the importation of certain goods by travellers resident in Denmark;

Whereas the tax system at present applied in Denmark does not yet allow full application of the harmonized arrangements deriving from Directive 69/169/EEC without the risk of serious economic consequences; whereas, therefore, Denmark should be provisionally

(1) OJ No C 114, 28. 4. 1983, p. 4.
(2) OJ No C 10, 16. 1. 1984, p. 44.
(3) OJ No C 57, 29. 2. 1984, p. 12.
(4) OJ No L 133, 4. 6. 1969, p. 6.
(5) OJ No L 206, 14. 7. 1982, p. 35.
(6) OJ No L 370, 31. 12. 1983, p. 62.
(7) OJ No L 20, 14. 1. 1983, p. 48.

authorized to retain derogation arrangements particularly in view of the increase in the exemption as from 1 July 1984; whereas, however, in order to facilitate adaptation, provision should be made for the progressive approximation of these arrangements to the harmonized Community rules,

HAS ADOPTED THIS DIRECTIVE:

Article 1

In Article 2 (1) of Directive 69/169/EEC '210 ECU' is hereby replaced by ', as as from 1 July 1984, 280 ECU'.

Article 2

1. Notwithstanding Article 2 (1) of Directive 69/169/EEC:

(a) the Hellenic Republic is hereby authorized to apply an exemption of 210 ECU until 31 December 1984 and of 250 ECU from 1 January to 30 June 1985;

(b) Ireland is hereby authorized to exclude from exemption goods whose unit value exceeds 77 ECU, as long as the amount of the exemption is 280 ECU.

2. During the period of application of the derogation referred to in paragraph 1 (b), the other Member States shall take the necessary steps to permit the remission of tax, in accordance with the procedures referred to in Article 6 of Directive 69/169/EEC, on goods imported into Ireland which are excluded from exemption in that country.

Article 3

1. Notwithstanding Directive 69/169/EEC, Denmark is hereby authorized, in respect of exemption on importation of the goods referred to below, to apply the following quantitative limits, where such goods are imported by travellers resident in Denmark, after a stay in another country:

— until 31 December 1985, when the stay is less than 48 hours, and

— from 1 January 1986 to 31 December 1989, when the stay is less than 24 hours:

	from 1 January 1985 to 31 December 1986	from 1 January to 31 December 1987	from 1 January to 31 December 1988	from 1 January to 31 December 1989
Cigarettes	60	140	200	240
or				
smoking tobacco where the tobacco particles have a width of less than 1,5 mm (fine cut)	100 g	200 g	250 g	300 g
Distilled beverages and spirits of an alcoholic strength exceeding 22 % vol	Nil	0,35	0,35	0,7

2. Directive 83/2/EEC is hereby repealed as from 31 December 1984.

Article 4

The Member States shall inform the Commission of the provisions which they adopt to implement this Directive.

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 30 April 1984.

For the Council

The President

C. CHEYSSON

No L 135/16 Official Journal of the European Communities 22. 5. 84

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 13 April 1984

concerning the Federal Republic of Germany pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax

(Only the German text is authentic)

(84/273/Euratom, ECSC, EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (1),

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (2), as last amended by Regulation (EEC, Euratom, ECSC) No 3625/83 (3), and in particular the first subparagraph of Article 9 (3), the second subparagraph of Article 11 (1) and Article 13 (2) thereof,

Whereas the Commission, pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77, adopted, for 1980, Decision 81/478/Euratom, ECSC, EEC (4), for 1981, Decision 82/758/ECSC, EEC, Euratom (5) and, for 1982, Decision 83/141/EEC, Euratom, ECSC (6);

Whereas the Federal Republic of Germany has again requested the extension of Decision 81/478/Euratom, ECSC, EEC, adopted for 1980; whereas it still wishes to use, for 1983, figures for a year earlier than the penultimate year to determine the breakdown provided for in Article 7 of Regulation (EEC, Euratom, ECSC) No 2892/77;

Whereas, for the early years of implementation of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (7), authorizations were granted annually; whereas, from 1983, authorizations should be granted for as long as Regulation (EEC, Euratom, ECSC) No 2892/77 remains valid, subject to review for each year;

Whereas the Advisory Committee on Own Resources has approved the report recording the opinions of its members on this Decision,

(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No L 336, 27. 12. 1977, p. 8.
(3) OJ No L 360, 23. 12. 1983, p. 1.
(4) OJ No L 186, 8. 7. 1981, p. 23.
(5) OJ No L 320, 17. 11. 1982, p. 16.
(6) OJ No L 96, 15. 4. 1983, p. 45.
(7) OJ No L 145, 13. 6. 1977, p. 1.

HAS ADOPTED THIS DECISION:

Article 1

Decision 81/478/Euratom, ECSC, EEC is hereby extended for 1983 and subsequent years with consequential amendments to the years in Article 1 of that Decision.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 13 April 1984.

For the Commission

Christopher TUGENDHAT

Vice-President

No L 135/18 Official Journal of the European Communities 22. 5. 84

COMMISSION DECISION

of 13 April 1984

concerning the Kingdom of Belgium pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax

(Only the Dutch and French texts are authentic)

(84/274/Euratom, ECSC, EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (1),

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (2), as last amended by Regulation (EEC, Euratom, ECSC) No 3625/83 (3), and in particular the first subparagraph of Article 9 (3), the second subparagraph of Article 11 (1) and Article 13 (2) thereof,

Whereas the Commission, pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77, adopted, for 1979, Decision 80/31/EEC, Euratom, ECSC (4), for 1980, Decision 81/1017/Euratom, ECSC, EEC (5), for 1981, Decision 82/810/ECSC, EEC, Euratom (6) and, for 1982, Decision 83/140/EEC, Euratom, ECSC (7);

Whereas the Kingdom of Belgium has requested the extension of Decision 83/140/EEC, Euratom, ECSC, adopted for 1982;

Whereas, for the early years of implementation of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (8), authorizations were granted annually; whereas, from 1983, authorizations should be granted for as long as Regulation (EEC, Euratom, ECSC) No 2892/77 remains valid, subject to review for each year;

Whereas the Advisory Committee on Own Resources has approved the report recording the opinions of its members on this Decision,

HAS ADOPTED THIS DECISION:

Article 1

Decision 83/140/EEC, Euratom, ECSC is hereby extended for 1983 and subsequent years.

Article 2

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 13 April 1984.

For the Commission

Christopher TUGENDHAT

Vice-President

(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No L 336, 27. 12. 1977, p. 8.
(3) OJ No L 360, 23. 12. 1983, p. 1.
(4) OJ No L 13, 18. 1. 1980, p. 31.
(5) OJ No L 367, 23. 12. 1981, p. 33.
(6) OJ No L 343, 4. 12. 1982, p. 16.
(7) OJ No L 96, 15. 4. 1983, p. 43.
(8) OJ No L 145, 13. 6. 1977, p. 1.

COMMISSION DECISION

of 13 April 1984

concerning the Kingdom of Denmark pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax

(Only the Danish text is authentic)

(84/275/Euratom, ECSC, EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources [1],

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources [2], as last amended by Regulation (EEC, Euratom, ECSC) No 3625/83 [3], and in particular the first subparagraph of Article 9 (3), the second subparagraph of Article 11 (1) and Article 13 (2) thereof,

Whereas the Commission, pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77, adopted, for 1979, Decision 80/384/EEC, Euratom, ECSC [4], for 1980, Decision 81/1017/Euratom, ECSC, EEC [5], for 1981, Decision 82/760/ECSC, EEC, Euratom [6] and, for 1982, Decision 83/193/EEC, Euratom, ECSC [7];

Whereas the Kingdom of Denmark has requested the extension of Decision 83/193/EEC, Euratom, ECSC, adopted for 1982; whereas from 1983 onwards it is applying the method for calculating the VAT own resources base set out in Section B of Title III of Regulation (EEC, Euratom, ECSC) No 2892/77;

Whereas for the early years of implementation of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment [8], authorizations were granted annually; whereas, from 1983, authorizations should be granted for as long as Regulation (EEC, Euratom, ECSC) No 2892/77 remains valid, subject to review for each year;

Whereas the Advisory Committee on Own Resources has approved the report recording the opinions of its members on this Decision,

HAS ADOPTED THIS DECISION:

Article 1

Decision 83/193/EEC, Euratom, ECSC is hereby extended for 1983 and subsequent years.

Article 2

This Decision is addressed to the Kingdom of Denmark.

Done at Brussels, 13 April 1984.

For the Commission

Christopher TUGENDHAT

Vice-President

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(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No L 336, 27. 12. 1977, p. 8.
(3) OJ No L 360, 23. 12. 1983, p. 1.
(4) OJ No L 94, 14. 4. 1980, p. 42.
(5) OJ No L 367, 23. 12. 1981, p. 33.
(6) OJ No L 320, 17. 11. 1982, p. 20.
(7) OJ No L 108, 24. 6. 1983, p. 12.
(8) OJ No L 145, 13. 6. 1977, p. 1.

No L 135/20 Official Journal of the European Communities 22. 5. 84

COMMISSION DECISION

of 13 April 1984

concerning the French Republic pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax

(Only the French text is authentic)

(84/276/Euratom, ECSC, EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (1),

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (2), as last amended by Regulation (EEC, Euratom, ECSC) No 3625/83 (3), and in particular the first subparagraph of Article 9 (3), the second subparagraph of Article 11 (1) and Article 13 (2) thereof,

Whereas the Commission, pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77, adopted, for 1979, Decision 80/821/EEC, Euratom, ECSC (4), for 1980, Decision 81/1017/Euratom, ECSC, EEC (5), for 1981, Decision 82/759/ECSC, EEC, Euratom (6) and, for 1982, Decision 83/142/EEC, Euratom, ECSC (7);

Whereas the French Republic has requested the extension of Decision 83/142/EEC, Euratom, ECSC, adopted for 1982;

Whereas, for the early years of implementation of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (8), authorizations were granted annually; whereas, from 1983, authorizations should be granted for as long as Regulation (EEC, Euratom, ECSC) No 2892/77 remains valid, subject to review for each year;

Whereas the Advisory Committee on Own Resources has approved the report recording the opinions of its members on this Decision,

HAS ADOPTED THIS DECISION:

Article 1

Decision 83/142/EEC, Euratom, ECSC is hereby extended for 1983 and subsequent years.

Article 2

This Decision is addressed to the French Republic.

Done at Brussels, 13 April 1984.

For the Commission

Christopher TUGENDHAT

Vice-President

(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No L 336, 27. 12. 1977, p. 8.
(3) OJ No L 360, 23. 12. 1983, p. 1.
(4) OJ No L 239, 12. 9. 1980, p. 20.
(5) OJ No L 367, 23. 12. 1981, p. 33.
(6) OJ No L 320, 17. 11. 1982, p. 18.
(7) OJ No L 96, 15. 4. 1983, p. 46.
(8) OJ No L 145, 13. 6. 1977, p. 1.

COMMISSION DECISION

of 13 April 1984

concerning Ireland pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax

(Only the English text is authentic)

(84/277/Euratom, ECSC, EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (1),

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (2), as last amended by Regulation (EEC, Euratom, ECSC) No 3625/83 (3), and in particular the first subparagraph of Article 9 (3), the second subparagraph of Article 11 (1) and Article 13 (2) thereof,

Whereas the Commission, pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77, adopted, for 1980, Decision 81/368/Euratom, ECSC, EEC (4), for 1981, Decision 82/758/ECSC, EEC, Euratom (5) and, for 1982, Decision 83/143/EEC, Euratom, ECSC (6);

Whereas Ireland has requested the extension of the Decision 83/143/EEC, Euratom, ECSC, adopted for 1982; whereas the supply of goods referred to in point 2 of Article 15 of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (7), hereinafter called 'the Sixth Directive', in conjunction with point 12 of Annex E is no longer taxed and so this authorization may no longer be granted;

Whereas, for the early years of implementation of the Sixth Directive, authorizations were granted annually; whereas, from 1983, authorizations should be granted for as long as Regulation (EEC, Euratom, ECSC) No 2892/77 remains valid, subject to review for each year;

Whereas the Advisory Committee on Own Resources has approved the report recording the opinions of its members of this Decision,

HAS ADOPTED THIS DECISION:

Article 1

In order that its VAT own resources base for 1983 and subsequent years may be calculated with a negligible margin of error, Ireland is authorized, in accordance with Article 5 (3) (b) of Regulation (EEC, Euratom, ECSC), No 2892/77, to adjust the inputs and outputs relating to exempt transactions by applying a correcting factor to the information obtained from the returns referred to in Article 22 (4) of the Sixth Directive in respect of which tax previously paid is refunded.

Article 2

For the purpose of calculating the VAT own resources base for 1983 and subsequent years, Ireland is authorized, pursuant to the first indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, not to take into account the following categories of transactions referred to in Annex E to the Sixth Directive:

1. the services and prostheses supplied by dental technicians referred to in Article 13 (A) (1) (e) of the Sixth Directive (Annex E, ex point 2);

(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No 336, 27. 12. 1977, p. 8.
(3) OJ No L 360, 23. 12. 1983, p. 1.
(4) OJ No L 145, 3. 6. 1981, p. 15.
(5) OJ No L 320, 17. 11. 1982, p. 16.
(6) OJ No L 96, 15. 4. 1983, p. 48.
(7) OJ No L 145, 13. 6. 1977, p. 1.

2. the supplies referred to in Article 13 (B) (g) when made by taxable persons who are entitled to deduct input tax for the building in question (Annex E, point 11);
3. the supplies of goods referred to in point 12 of Article 15 of the Sixth Directive (Annex E, point 14).

Article 3

For the purpose of calculating the VAT own resources base for 1983 and subsequent years, Ireland is authorized, pursuant to the second indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, to use approximate estimates for calculating the base in respect of the following categories of transactions referred to in Annex F to the Sixth Directive:

1. admission to sporting events (Annex F, point 1);
2. supplies of greyhounds (Annex F, point 4);
3. services supplied by undertakers and cremation services, together with goods related thereto (Annex F, point 6);
4. treatment of animals by veterinary surgeons (Annex F, point 9);
5. the services of travel agents referred to in Article 26 of the Sixth Directive and those of travel agents acting in the name and on the account of the traveller for journeys within the Community (Annex F, point 27).

Article 4

This Decision is addressed to Ireland.

Done at Brussels, 13 April 1984.

For the Commission
Christopher TUGENDHAT
Vice-President

COMMISSION DECISION

of 13 April 1984

concerning the Italian Republic pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax

(Only the Italian text is authentic)

(84/278/Euratom, ECSC, EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (1),

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (2), as last amended by Regulation (EEC, Euratom, ECSC) No 3625/83 (3), and in particular the first subparagraph of Article 9 (3), the second subparagraph of Article 11 (1) and Article 13 (2) thereof,

Whereas the Commission, pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77, adopted, for 1979, Decision 80/513/EEC, Euratom, ECSC (4), for 1980, Decision 81/1017/Euratom, ECSC, EEC (5), for 1981, Decision 82/810/ECSC, EEC, Euratom (6) and, for 1982, Decision 83/144/EEC, Euratom, ECSC (7);

Whereas the Italian Republic has again requested the extension of Decision 80/513/EEC, Euratom, ECSC, adopted for 1979;

Whereas, for the early years of implementation of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (8), authorizations were granted annually; whereas, from 1983, authorizations should be granted for as long as Regulation (EEC, Euratom, ECSC) No 2892/77 remains valid, subject to review for each year;

Whereas the Advisory Committee on Own Resources has approved the report recording the opinions of its members on this Decision,

HAS ADOPTED THIS DECISION:

Article 1

Decision 80/513/EEC, Euratom, ECSC is hereby extended for 1983 and subsequent years.

Article 2

This Decision is addressed to the Italian Republic.

Done at Brussels, 13 April 1984.

For the Commission

Christopher TUGENDHAT

Vice-President

(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No L 336, 27. 12. 1977, p. 8.
(3) OJ No L 360, 23. 12. 1983, p. 1.
(4) OJ No L 126, 21. 5. 1980, p. 17.
(5) OJ No L 367, 23. 12. 1981, p. 33.
(6) OJ No L 343, 4. 12. 1982, p. 16.
(7) OJ No L 96, 15. 4. 1983, p. 49.
(8) OJ No L 145, 13. 6. 1977, p. 1.

COMMISSION DECISION

of 13 April 1984

concerning the Kingdom of the Netherlands pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax

(Only the Dutch text is authentic)

(84/279/Euratom, ECSC, EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (1),

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (2), as last amended by Regulation (EEC, Euratom, ECSC) No 3625/83 (3), and in particular the first subparagraph of Article 9 (3), the second subparagraph of Article 11 (1) and Article 13 (2) thereof,

Whereas the Commission, pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77, adopted, for 1979, Decision 80/822/EEC, Euratom, ECSC (4), for 1980, Decision 81/440/Euratom, ECSC, EEC (5), for 1981, Decision 82/761/ECSC, EEC, Euratom (6) and, for 1982, Decision 83/194/EEC, Euratom, ECSC (7);

Whereas the Kingdom of the Netherlands has requested the extension of Decision 83/194/EEC, Euratom, ECSC, adopted for 1982;

Whereas, for the early years of implementation of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (8), authorizations were granted annually; whereas, from 1983, authorizations should be granted for as long as Regulation (EEC, Euratom, ECSC) No 2892/77 remains valid, subject to review for each year;

Whereas the Advisory Committee on Own Resources has approved the report recording the opinions of its members on this Decision,

HAS ADOPTED THIS DECISION:

Article 1

Decision 83/194/EEC, Euratom, ECSC is hereby extended for 1983 and subsequent years.

Article 2

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 13 April 1984.

For the Commission

Christopher TUGENDHAT

Vice-President

(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No L 336, 27. 12. 1977, p. 8.
(3) OJ No L 360, 23. 12. 1983, p. 1.
(4) OJ No L 239, 12. 9. 1980, p. 23.
(5) OJ No L 168, 25. 6. 1981, p. 24.
(6) OJ No L 320, 17. 11. 1982, p. 22.
(7) OJ No L 108, 26. 4. 1983, p. 14.
(8) OJ No L 145, 13. 6. 1977, p. 1.

COMMISSION DECISION

of 13 April 1984

concerning the United Kingdom pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax

(Only the English text is authentic)

(84/280/Euratom, ECSC, EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (1),

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (2), as last amended by Regulation (EEC, Euratom, ECSC) No 3625/83 (3), and in particular the first subparagraph of Article 9 (3), the second subparagraph of Article 11 (1) and Article 13 (2) thereof,

Whereas the Commission, pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77, adopted, for 1979, Decision 80/774/EEC, Euratom, ECSC (4), for 1980, Decision 81/1017/Euratom, ECSC, EEC (5), for 1981, Decision 82/810/ECSC, EEC, Euratom (6) and, for 1982, Decision 83/195/EEC, Euratom, ECSC (7);

Whereas the United Kingdom has requested the extension of Decision 83/195/EEC, Euratom, ECSC, adopted for 1982;

Whereas, for the early years of implementation of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (8), authorizations were granted annually; whereas, from 1983, authorizations should be granted for as long as Regulation (EEC, Euratom, ECSC) No 2892/77 remains valid, subject to review for each year;

Whereas the Advisory Committee on Own Resources has approved the report recording the opinions of its members on this Decision,

HAS ADOPTED THIS DECISION:

Article 1

Decision 83/195/EEC, Euratom, ECSC is hereby extended for 1983 and subsequent years.

Article 2

This Decision is addressed to the United Kingdom.

Done at Brussels, 13 April 1984.

For the Commission

Christopher TUGENDHAT

Vice-President

(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No L 336, 27. 12. 1977, p. 8.
(3) OJ No L 360, 23. 12. 1983, p. 1.
(4) OJ No L 222, 23. 8. 1980, p. 11.
(5) OJ No L 367, 23. 12. 1981, p. 33.
(6) OJ No L 343, 4. 12. 1982, p. 16.
(7) OJ No L 108, 26. 4. 1983, p. 16.
(8) OJ No L 145, 13. 6. 1977, p. 1.

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COMMISSION DECISION

of 13 April 1984

concerning the Grand Duchy of Luxembourg pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax

(Only the French text is authentic)

(84/281/Euratom, ECSC, EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (1),

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (2), as last amended by Regulation (EEC, Euratom, ECSC) No 3625/83 (3), and in particular the first subparagraph of Article 9 (3), the second subparagraph of Article 11 (1) and Article 13 (2) thereof,

Whereas the Commission, pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77, adopted, for 1980, Decision 80/1134/EEC, Euratom, ECSC (4), for 1981, Decision 82/758/ECSC, EEC, Euratom (5), and, for 1982, Decision 83/145/EEC, Euratom, ECSC (6);

Whereas the Grand Duchy of Luxembourg has requested the extension of Decision 83/145/EEC, Euratom, ECSC, adopted for 1982;

Whereas, for the early years of implementation of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (7), authorizations were granted annually; whereas, from 1983, authorizations should be granted for as long as Regulation (EEC, Euratom, ECSC) No 2892/77 remains valid, subject to review for each year;

Whereas the Advisory Committee on Own Resources has approved the report recording the opinions of its members on this Decision,

HAS ADOPTED THIS DECISION:

Article 1

Decision 83/145/EEC, Euratom, ECSC is hereby extended for 1983 and subsequent years.

Article 2

This Decision is addressed to the Grand Duchy of Luxembourg.

Done at Brussels, 13 April 1984.

For the Commission

Christopher TUGENDHAT

Vice-President

(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No L 336, 27. 12. 1977, p. 8.
(3) OJ No L 360, 23. 12. 1983, p. 1.
(4) OJ No L 336, 13. 12. 1980, p. 35.
(5) OJ No L 320, 17. 11. 1982, p. 16.
(6) OJ No L 96, 15. 4. 1983, p. 50.
(7) OJ No L 145, 13. 6. 1977, p. 1.

COUNCIL REGULATION (EEC) No 1568/84

of 4 June 1984

supplementing the Annex to Regulation (EEC) No 3/84 introducing arrangements for movement within the Community of goods sent from one Member State for temporary use in one or more other Member States

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas the list of goods eligible under the arrangements for movement within the Community, introduced by Regulation (EEC) No 3/84 (4), is annexed thereto; whereas, when adopting that Regulation, the Council proposed to continue its examination of the proposal from the Commission with a view to a possible extension of the arrangements to other goods, taking account, however, of the risk of fraud;

Whereas a further examination has led to the conclusion that the arrangements may be extended to certain commercial samples without thereby increasing the risk of fraud;

Whereas the Annex to the Regulation should consequently be supplemented so that such commercial samples may be eligible under the arrangements as from their implementation,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EEC) No 3/84 is hereby supplemented by the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities.*

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Luxembourg, 4 June 1984.

For the Council

The President

J. DELORS

(1) OJ No C 227, 8. 9. 1981, p. 3.
(2) OJ No C 40, 15. 2. 1982, p. 35.
(3) OJ No C 343, 31. 12. 1981, p. 1.
(4) OJ No L 2, 4. 1. 1984, p. 1.

ANNEX

III. COMMERCIAL SAMPLES

(a) *Definition*

For the purposes of this Annex 'commercial samples' means articles, except for articles in solid precious metals as listed below, which are representative of a particular category of goods already produced, or are examples of goods the production of which is contemplated, on condition that :

1. they are imported into the Member State of temporary use by a person in the course of his business solely for the purpose of being shown or demonstrated there for the soliciting of orders for goods to be supplied from another Member State ;
2. they are not sold or put to normal use except for purposes of demonstration, nor used in any way for hire or reward while they are in the Member State of temporary use ;
3. identical articles are not brought in by the same person in such quantity that, taken as a whole, they no longer constitute samples under ordinary commercial practices ;
4. in the case of sets of porcelain tableware, crystalware and cutlery, spoons and forks in base metals plated or rolled in precious metals, they are merely articles representative of those sets ;
5. they are owned by a person established in a Member State other than the State of temporary use ;
6. they are capable of identification on reconsignment ;
7. even where the articles are consumable, they are reconsigned in the same state without prejudice to Article 11 (2).

(b) *List of commercial samples referred to in point (a)*

1. Varnishes, lacquers, distempers, paints and similar articles ;
2. Putty, mastics, sealants, glues and similar products ;
3. Upkeep, cleaning and household products ;
4. Pyrotechnic articles ;
5. Photographic or cinematographic plates, films, paper and cards, and chemicals for photographic use ;
6. Saddlery and travel goods, bags, satchels, briefcases and similar articles, footwear, of leather or other materials ;
7. Household utensils and similar articles ;
8. Basketware and wickerwork articles ;
9. Articles made of paper or cardboard, whether or not surface-coated ;
10. Books, stationery and booksellers' articles ;
11. Clothing and accessories, including fashion collections, but excluding furs and jewellery ;
12. Haberdashery ;
13. Gloves ;
14. Stockings, socks, tights and underwear ;
15. Household linen ;
16. Tents and other articles of camping equipment in all materials ;
17. Headgear ;
18. Umbrellas, sunshades, walking-sticks, canes, whips and crops ;
19. Tiles and paving stones ;
20. Sanitary ware ;
21. Tableware and articles used for domestic or toilet purposes ;
22. Glassware, crystalware and mirrors ;
23. Handtools ;
24. Cutlery, spoons and forks ;
25. Locks, plates, fittings and similar metal articles ;
26. Lamps and light-fittings ;
27. Optical instruments and apparatus ;

28. Medical, surgical, dental and veterinary instruments, appliances and equipment, including for para-medical uses;
29. Toys, games and sports requisites;
30. Decorations and furnishings, wallcoverings;
31. Domestic electrical appliances;
32. Gardening equipment;
33. Security systems (fire, theft);
34. Musical instruments;
35. Domestic furniture;
36. Accessories for pets;
37. Accessories for the care of babies;
38. Bicycles and accessories;
39. Clocks and watches;
40. Artists' materials;
41. Printing plates for use with lithographic and flexograph presses;
42. Accessories for cars and other means of transport;
43. Smokers' requisites;
44. Articles for hairdressers.

29. 6. 84 Official Journal of the European Communities No L 171/1

I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 1751/84

of 13 June 1984

laying down certain provisions for the application of Council Regulation (EEC) No 3599/82 on temporary importation arrangements

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3599/82 of 21 December 1982 on temporary importation arrangements (1), and in particular Article 33 thereof,

Whereas it is desirable to lay down the procedure under which temporary importation arrangements are to be operated pursuant to Regulation (EEC) No 3599/82;

Whereas it is necessary to identify certain cases in which the competent authorities need not require a guarantee;

Whereas it is desirable to adopt measures of administrative cooperation in cases where the benefit of the arrangements is transferred between persons established in different Member States, as well as in cases where goods, admitted temporarily in one Member State, are sent to another with a view to their exportation outside the customs territory of the Community;

Whereas it is necessary to establish lists of goods to be considered as professional equipment, teaching aids or tourist promotional material or welfare material for seafarers;

Whereas it is desirable to provide for a system of information exchange regarding authorizations issued each time the competent authorities grant the use of the temporary importation arrangements to goods imported under Article 23 of Regulation (EEC) No 3599/82, and for examination of this information within the Committee for Customs Processing Arrangements;

Whereas it is desirable to exclude certain goods from the benefit of partial relief from import duties under the temporary importation arrangements;

Whereas it is advisable to specify the nature of the information which must be brought to the Commission's attention in cases of application of Article 27 of Regulation (EEC) No 3599/82;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Committee for Customs Processing Arrangements,

HAS ADOPTED THIS REGULATION:

CHAPTER I

THE GRANTING OF THE BENEFIT OF THE ARRANGEMENTS

A. Application

Article 1

1. In order to benefit from the temporary importation arrangements under Regulation (EEC) No 3599/82, hereinafter referred to as the basic Regulation, the interested party or his authorized representative must submit an application to the competent authority in the Member State in which the goods to be placed under the arrangements are to be used.

(1) OJ No L 376, 31. 12. 1982, p. 1.

2. Without prejudice to Articles 12 and 13 the application must be submitted in writing. It must be signed and accompanied by all the information necessary to establish whether the conditions governing the granting of the benefit of temporary importation arrangements have been satisfied.

B. Authorization

Article 2

1. The competent authorities shall take a decision on the application provided for in Article 1 and shall if appropriate issue a temporary importation authorization, hereinafter referred to as 'the authorization'.

2. The authorization shall stipulate the conditions on which the arrangements may be used; it shall indicate in particular the means by which the goods are identified and the date by which they must be re-exported, on the basis of the use to which they are to be put, and may indicate the customs office or offices at which the declaration provided for in Article 3 shall be lodged.

3. The authorization shall be authenticated by the competent authorities, who shall keep a copy.

4. Depending on the circumstances, the authorization may be valid for one or more temporary importation operations.

CHAPTER II

THE PLACING OF GOODS UNDER THE ARRANGEMENTS

Title I

Declaration

Article 3

The placing of goods under the temporary importation arrangements is subject to the lodgement at a customs office under the conditions specified in this Regulation of a temporary importation declaration, hereinafter referred to as the 'the declaration'.

The person who makes the declaration is hereinafter referred to as 'the declarant'.

Article 4

1. Without prejudice to Articles 12 and 13, the declaration must be made in writing on a form corresponding to the appropriate official model determined by the competent authorities.

2. The declaration must be signed, and contain both the particulars of the authorization and those necessary for the identification of the goods and the application if appropriate of any import duties and of other provisions governing the placing of the goods under the temporary importation arrangements.

It must contain, in particular, the following particulars:

(a) the declarant's name or business name and address;

(b) the name or the business name and address of the holder of the authorization and of the user of the goods, where two distinct persons are concerned;

(c) the Article of the basic Regulation under which the benefit of the arrangements is requested;

(d) the length of time for which the goods are intended to remain under the temporary importation arrangements in the Member State where the authorization was issued;

(e) to the extent possible, the place where the goods are to be used;

(f) the number, the nature, marks and packing numbers of the packages containing the goods or, in the case of unpacked goods, the number of articles forming part of the entry or the endorsement 'In bulk', according to the case, as well as details necessary for the identification of these unpacked goods;

(g) the trade description of the goods;

(h) the heading or subheading of the goods in the nomenclature of the Common Customs Tariff, as well as a description of the goods in conformity with the terms of the said nomenclature or in terms sufficiently precise to allow the customs authority to determine immediately and without ambiguity that they correspond to the tariff heading or subheading declared;

(i) where goods have been entered for temporary importation at a customs office subsequent to the lodging in respect of these goods of the summary declaration referred to in Article 3 of Council Directive 68/312/EEC (1), a reference to that summary declaration, unless the customs authority undertakes to enter that information itself;

(1) OJ No L 194, 6. 8. 1968, p. 13.

Article 6

1. Only declarations which comply with the conditions laid down in Article 4 may be accepted by the customs authority.

2. However, at the declarant's request and for reasons deemed valid by the customs authority, the said authority may accept a declaration which does not contain certain of the particulars referred to in Article 4; the authority shall then set a time limit for the communication of those particulars.

The declaration shall, in any event, contain the particulars necessary for the identification of the goods to which it relates.

3. An incomplete declaration accepted under the conditions set out in paragraph 2 may be either completed by the declarant or, by agreement with the customs authority, replaced by another declaration which complies with the conditions laid down in Article 4. In the latter case, the operative date for the determination of any import duties payable and the application of the other provisions governing the temporary admission of goods shall be the date of acceptance of the incomplete declaration.

Article 7

1. Declarations which comply with the conditions laid down in Article 4 and those which are accorded the facilities provided for in Article 6 (2) shall be accepted by the customs authority immediately, in accordance with the procedures laid down in each Member State.

However where, pursuant to the second subparagraph of Article 5 (1), a declaration has been lodged before the goods to which it relates have arrived at the customs office or at another place designated by the customs authority, the declaration may be accepted only after the goods in question have been presented to the competent authorities, within the meaning of Article 5 (2).

2. The date of acceptance of the declaration shall be noted on that document for the purpose of determining the operative date for the application of Article 3 (1) of the basic Regulation.

Article 8

1. The declarant shall, at his request, be authorized to correct in respect of one or more of the particulars referred to in Article 4 declarations accepted by the customs authority in accordance with the conditions set out in Article 7, subject to the following:

(a) the request for a correction must be made before the goods are released for temporary importation;

(b) the correction shall no longer be allowed where the request is made after the customs authority has informed the declarant that it intends to examine the goods or that it has itself established that the particulars in question are incorrect;

(c) the correction shall not result in the declaration applying to goods other than those to which it originally related.

2. The customs authority may allow or require the corrections referred to in paragraph 1 to be made by the lodging of a new declaration intended to replace the original declaration. In that event, the date for determination of any import duties payable and for the application of the other provisions governing the temporary importation of goods shall be that of the acceptance of the original declaration.

3. The customs authority may authorize, at the declarants request, the cancellation or invalidation of the declaration in so far as the goods have not been released.

Title II

Examination of goods and attestation by the customs authority

Article 9

1. Without prejudice to any other means of control at its disposal, the customs authority may examine all or part of the goods.

2. The goods shall be examined at the places designated and at the times appointed for that purpose. However, the customs authority may, at the request of the declarant, authorize the examination of goods at places or times other than those referred to above. Any costs involved shall be borne by the declarant.

3. Transport of goods to the places where they are to be examined, unpacking, repacking and all other operations necessitated by such examination shall be carried out by the declarant or on his responsibility. In all cases, any costs involved shall be borne by the declarant.

4. The declarant shall be entitled to be present at the examination of the goods or to be represented

on that occasion. If the customs authority sees fit, it may require the declarant to be present at the examination of the goods or to be represented in order to assist with the examination, as necessary.

5. When examining the goods, the customs authority may take samples for analysis or for more detailed examination. The costs arising from such analysis or examination shall be borne by the administrative authority.

Article 10

1. The results of the checking of the declaration, whether or not accompanied by an examination of the goods, shall form the basis for calculating the import duties to be applied, if any.

2. Application of paragraph 1 shall be without prejudice to any subsequent verification by the competent authorities of the Member State in which the goods have been placed under the temporary importation arrangements or to the possible consequences of applying the provisions in force, particularly as regards any determination of the amount of import duties applicable to those goods.

3. The attestation by the customs authority must state in particular the means of identification used; it must, in addition, be dated and carry the details necessary to identify the official issuing it.

Title III

Special provisions

Article 11

1. Where the Member State in which application to place goods under the temporary importation arrangements is made has empowered all or certain customs offices to grant the authorization, the declaration lodged at one of those offices shall also constitute the application referred to in Article 1. In that event authorization shall be granted by the customs office on that declaration.

2. Each Member State shall communicate to the Commission those offices which have been empowered under the terms of paragraph 1.

Article 12

1. Travellers' personal effects referred to in Article 19 of the basic Regulation shall be allowed the benefit of temporary importation, without a written declaration, under the conditions laid down by the competent authorities, save at the express request of the competent authorities.

2. The temporary importation of goods covered by an ATA carnet issued under the Customs Convention on the ATA carnet for the Temporary Admission of Goods, signed in Brussels on 6 December 1961, hereinafter referred to as 'the ATA Convention', shall be permitted on production and acceptance of the said carnet. In this case submission to the customs authority of the ATA carnet shall be equivalent to submission of the application and declaration, and acceptance shall be equivalent to authorization.

Article 13

1. The competent authorities shall allow the benefit of the temporary importation arrangements in respect of:

— animals and equipment specified in Article 20 (b) and (c) of the basic Regulation, imported by a person established outside the customs territory of the Community,

— packings with indelible and non-removable markings of a person established outside the customs territory of the Community, imported filled,

on the basis of a verbal declaration on condition that the declarant provides in support of his declaration an inventory setting out:

(a) his name and address;

(b) the trade description of the goods;

(c) the value of the said goods;

(d) the intended length of stay of those goods in the Member State concerned.

2. The inventory, dated and signed by the applicant, shall be lodged in duplicate at the customs office of importation, where one copy, stamped by the customs authority, shall be given to the interested party, the other copy being retained by the said authority.

Certification of the inventory by the customs authority shall have the value of an authorization.

3. The inventory, relating to the animals and equipment mentioned in the first indent of paragraph 1, may be used for one year for all entries carried out into the customs territory of the Community.

It shall be deposited each year at the competent customs office before the completion of the first temporary importation operation.

4. The competent authorities may permit the use of the temporary importation arrangements for goods other than those provided for in paragraph 1, on a verbal declaration.

In that case, the custom office of importation shall

(a) issue a customs document for temporary importation which shall have the same value as an authorization, or

(b) request the production of the inventory provided for in paragraph 1, to which the provisions of paragraph 2 shall apply.

5. Each Member State shall inform the Commission of cases in which paragraph 4 is applied.

Article 14

1. For the purposes of Article 3 (1) of the basic Regulation, the cases in which the competent authorities shall not require the provision of a security are listed in Annex I.

2. In the case of the use of an ATA carnet, the guarantee furnished in accordance with the ATA Convention shall be considered sufficient.

Title IV

The period during which goods remain under the arrangements

Article 15

1. For the purposes of Article 4 (1) of the basic Regulation the period during which goods may remain in the territory under the temporary importation arrangements shall run from the date on which the declaration is accepted.

2. For the purposes of Article 4 (2) of the basic Regulation 'exceptional circumstances' shall be taken to mean any event as a result of which the goods must be used for a further period in order to fulfil the purpose of the temporary importation operation.

3. Where the person benefiting from the temporary importation arrangements requests the extension of the period referred to in paragraph 1 in accordance with the provisions of Article 4 (2) of the basic Regulation, he shall submit with his request all documents at his disposal such as to enable the competent authorities which issued the authorization to take the necessary decision.

Where an extension is granted exceeding the maximum period provided for in the said Article 4 (1), it shall be fixed having regard to the circumstances which prevented the holder of the authorization from fulfilling his obligation to re-export within the period initially stipulated.

Title V

Transfer of the benefit of the arrangements and successive placing of the same goods under the arrangements in various Member States

Article 16

Where Article 5 (1) of the basic Regulation is applied, the competent authorities who grant the transfer of the authorization shall annotate it accordingly.

This transfer shall terminate the arrangements as regards the former beneficiary.

Article 17

1. When goods placed under the temporary importation arrangements in one Member State, hereinafter referred to as 'the Member State of departure', must be used under the same arrangements in another Member State, hereinafter referred to as 'the Member State of destination' a new authorization must be granted by the competent authorities of the Member State of destination under the procedure laid down in Article 19 (2).

2. The goods concerned shall be transported from one Member State to another in accordance with the provisions of Council Regulation (EEC) No 222/77 [1] applicable to the goods referred to in Article 1 (2) (a) thereof.

The Community transit document or the document treated as the Community external transit document shall carry one of the following endorsements:

— T.A. goods,

— marchandises A.T.,

— M.I.-varer,

— V.V.-Waren,

— Εμπορεύματα Π.Ε.,

— T.I. goederen,

— merci A.T.

3. The temporary importation arrangements granted in the Member State of departure shall be completed and any duties due by virtue of partial

[1] OJ No L 38, 9. 2. 1977, p. 1.

relief shall be collected in that State when the goods concerned are placed under the Community external transit procedure.

4. Paragraphs 2 and 3 shall also apply in the case of goods sent from one Member State to another with a view to their exportation outside the customs territory of the Community.

Article 18

1. Where Article 17 is applied when the goods are placed under the Community external transit procedure, the competent authorities of the Member State of departure shall issue, at the request of the holder of the authorization, the information sheet provided for in paragraph 2.

2. The information sheet, hereinafter referred to as 'the INF 6 sheet', shall consist of an original and a copy. It shall be set out on a form conforming to the model in Annex II and fulfilling the conditions set out in Annex III.

Article 19

1. The INF 6 sheet shall contain all the details necesary to inform the competent authorities of the Member State of destination *inter alia* regarding:

— the date the goods were placed under the temporary importation arrangements in the Member State of departure,

— the elements of change established on that date,

— where appropriate, the amount of import duties already collected, by virtue of partial relief and the date taken into consideration for that collection.

2. The person concerned shall submit the INF 6 sheet to the competent authorities of the Member State of destination in support of his application to obtain a new authorization as provided for in Article 17 (1).

3. The original of the INF 6 sheet shall be returned to the person concerned; the copy shall be retained by the issuing customs authorities.

CHAPTER III

SPECIAL PROVISIONS CONCERNING GOODS ELIGIBLE FOR TEMPORARY IMPORTATION ON A TOTAL RELIEF BASIS

Title I

The temporary importation of certain goods

Article 20

The list of goods to be considered as professional equipment referred to in the second subparagraph of Article 7 (2) of the basic Regulation is given in Annex IV.

Article 21

The list of goods to be considered as teaching aids referred to in Article 10 (2) of the basic Regulation is given in Annex V.

Article 22

For the purposes of Article 10 (3) (a) of the basic Regulation 'approved establishments' shall mean public or private teaching or vocational training establishments which are essentially non-profit making and have been approved by the competent authorities in the Member State of importation for the purposes of receiving teaching aids on temporary importation.

Article 23

For the purposes of Article 11 (3) (a) of the basic Regulation 'approved establishments' shall mean public or private scientific or teaching establishments which are essentially non-profit making and have been approved by the competent authorities in the Member State of importation for the purpose of receiving scientific equipment on temporary importation.

Article 24

For the purposes of Article 12 (2) (a) of the basic Regulation, equipment 'dispatched on an occasional basis' shall mean any medical, surgical or laboratory equipment dispatched at the request of a hospital or other medical institution which is facing exceptional circumstances and urgently requires such equipment in order to make up for the inadequacy of its own facilities.

Article 25

For the purposes of Article 16 (1) (a) and (d) of the basic Regulation:

— 'second-hand goods' shall mean goods other than newly manufactured goods,

— 'consignments on approval' shall mean consignments of goods which the consignor for his part wishes to sell and which the consignee may decide to purchase after inspection.

Article 26

The list of goods to be considered as tourist publicity material referred to in Article 20 (d) of the basic Regulation is given in Annex VI.

Article 27

The list of goods to be considered as welfare material for seafarers referred to in Article 21 (3) of the basic Regulation is given in Annex VII.

Title II

Goods temporarily imported in particular circumstances which have no economic effect

Article 28

1. The competent authorities shall grant the benefit of the arrangements when they consider, in view of the application for temporary importation drawn up in accordance with the provisions of Article 2 (2) which is submitted by virtue of Article 23 of the basic Regulation, that it concerns a particular situation which has no economic effect.

2. Each Member State shall communicate to the Commission a list of goods of a value exceeding 3 000 ECU in respect of which it has authorized temporary importation in application of Article 23 of the basic Regulation.

This list shall contain the trade description of the said goods and in addition the Common Customs Tariff heading or subheading. It shall also contain a reference to the customs value of the goods and the use to which they will be put in the Member State in question.

3. Communications as provided for in paragraph 2 shall be made on a form conforming to the model in Annex VIII. They shall reach the Commission by 15 March and 15 September each year in respect of authorizations issued during the previous six months.

4. The Commission shall communicate each list to the other Member States. The lists shall be examined by the Committee referred to in Article 32 of the basic Regulation.

CHAPTER IV

SPECIAL PROVISIONS CONCERNING GOODS IN RESPECT OF WHICH PARTIAL RELIEF MAY BE GRANTED

Article 29

The list of goods to be excluded from the possibility of benefiting from temporary importation arrangements with partial relief from import duties referred to in Article 24 (2) of the basic Regulation is given in Annex IX.

Article 30

1. Each Member State shall communicate to the Commission the list of goods in respect of which it has authorized temporary importation in application of Article 27 of the basic Regulation.

This list shall contain the trade description of the goods and in addition the Common Customs Tariff heading or subheading. It shall also contain a reference to the customs value of the goods and the use to which they will be put in the Member State in question.

2. Communications as referred to in paragraph 1 shall be made on a form conforming to the model in Annex X. They shall reach the Commission by 15 March and 15 September each year in respect of authorizations issued during the previous six months.

3. The Commission shall communicate each list to the other Member States. The lists shall be examined by the Committee referred to in Article 32 of the basic Regulation.

4. On expiry of the period for which the benefit of the temporary importation arrangements has been granted with total relief from import duties under Article 27 (1) of the basic Regulation, the goods must either be dealt with in accordance with Article 28 of that Regulation or be placed under the temporary importation arrangements with partial relief from import duties.

For the purposes of calculating any import duties payable under the partial relief arrangements, the operative date shall be that on which the goods were placed under the temporary importation arrangements with total relief from import duties under Article 27 of the basic Regulation.

Article 31

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities*.

It shall apply from 13 June 1985.

This Regulation shall be binding in its entirety and directly applicable in all Member States,

Done at Brussels, 13 June 1984.

For the Commission
Karl-Heinz NARJES
Member of the Commission

No L 208/58 Official Journal of the European Communities 3. 8. 84

TENTH COUNCIL DIRECTIVE

of 31 July 1984

on the harmonization of the laws of the Member States relating to turnover taxes, amending Directive 77/388/EEC — Application of value added tax to the hiring out of movable tangible property

(84/386/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof,

Having regard to the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax : uniform basis of assessment (1),

Having regard to the proposal from the Commission (2),

Having regard to the opinion of the European Parliament (3),

Having regard to the opinion of the Economic and Social Committee (4),

Whereas, pursuant to Article 4 (2) of the aforementioned Directive, the hiring out of movable tangible property may constitute an economic activity subject to value added tax ;

Whereas application of Article 9 (1) of the aforementioned Directive to the hiring out of movable tangible property may lead to substantial distortions of competition where the lessor and the lessee are established in different Member States and the rates of taxation in those States differ ;

Whereas it is therefore necessary to establish that the place where a service is supplied is the place where the customer has established his business or has a fixed establishment for which the service has been supplied or, in the absence thereof, the place where he has his permanent address or usually resides ;

Whereas, however, as regards the hiring out of forms of transport, Article 9 (1) should, for reasons of control, be strictly applied, the place where the supplier has established his business being treated as the place of supply of such services,

HAS ADOPTED THIS DIRECTIVE :

Article 1

Directive 77/388/EEC is hereby amended as follows :

1. Article 9 (2) (d) is deleted ;
2. in Article 9 (2) (e) the following indent is added :
   '— the hiring out of movable tangible property, with the exception of all forms of transport.' ;
3. in Article 9 (3), 'and the hiring out of movable tangible property' is replaced by 'and the hiring out of forms of transport'.

Article 2

1. Member States shall bring into force the measures necessary to comply with this Directive by 1 July 1985.

2. Member States shall inform the Commission of the provisions which they adopt for the purpose of applying this Directive. The Commission shall inform the other Member States thereof.

Article 3

This Directive is addressed to the Member States.

Done at Brussels, 31 July 1984.

For the Council

The President

J. O'KEEFFE

(1) OJ No L 145, 13. 6. 1977, p. 1.
(2) OJ No C 116, 9. 5. 1979, p. 4.
(3) OJ No C 4, 7. 1. 1980, p. 63.
(4) OJ No C 297, 28. 11. 1979, p. 16.

II

(Acts whose publication is not obligatory)

COUNCIL

Application of Article 27 of the Sixth Council Directive of 17 May 1977 on value added tax (1)

(Authorization of a measure derogating from the Directive in the context of a draft agreement between the Federal Republic of Germany and the Netherlands)

(84/468/EEC)

By letters dated 12 and 21 June 1984, the Governments of the Federal Republic of Germany and the Netherlands, in application of the above provisions, informed the Commission of their intention to introduce a measure derogating from the Sixth Directive whereby, under a draft agreement between Germany and the Netherlands, all the construction and maintenance work relating to the diversion of the Ems channel and the extension of the port of Emden would be subject to German VAT only, with Germany assuming responsibility for this work.

By letter dated 9 July 1984, the Commission informed the other Member States of the intentions of the German and Netherlands Governments.

In accordance with Article 27 (4) of the Sixth Directive, the Council Decision authorizing this derogation will be deemed to have been adopted if, within two months of the other Member States being informed as described above, neither the Commission nor any Member State has requested that the matter be discussed by the Council.

As neither the Commission nor any Member State has raised the matter within the prescribed time, the Council Decision is deemed to have been adopted on 10 September 1984.

(1) OJ No L 145, 13. 6. 1977, p. 1.

Application of Article 27 of the Sixth Council Directive of 17 May 1977 on value added tax (1)

(Authorization of a derogation, requested by the United Kingdom, with a view to avoiding certain types of fraud or tax evasion)

(84/469/EEC)

In a letter dated 17 January 1984, the United Kingdom Government informed the Commission, pursuant to the above provisions, of its intention to introduce a measure derogating from the Sixth Directive with a view to avoiding certain types of fraud or tax evasion on supplies of gold, gold coins and gold scrap between taxable persons by a special tax accounting scheme.

The Commission informed the other Member States, by a letter dated 14 February 1984, of the intention of the United Kingdom Government.

In accordance with Article 27 (4) of the Sixth Directive, the Council Decision authorizing this derogation will be deemed to have been adopted if, within two months of the notification mentioned in the preceding paragraph, neither the Commission nor any Member State has requested that the matter be raised by the Council.

Since neither the Commission nor any Member State has asked for this matter to be raised within this period, the Council Decision is deemed to have been adopted on 15 April 1984.

(1) OJ No L 145, 13. 6. 1977, p. 1.

30. 10. 84 Official Journal of the European Communities No L 285/17

COUNCIL DECISION

of 23 October 1984

authorizing the French Republic to apply in respect of automatic gaming machines a measure derogating from Article 18 of the Sixth Directive (77/388/EEC) on the harmonization of the laws of the Member States relating to turnover taxes

(84/517/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Sixth Council Directive (77/388/EEC) of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (1), hereinafter referred to as 'the Sixth Directive', and in particular Article 27 thereof,

Having regard to the proposal from the Commission,

Whereas, under the terms of Article 27 (1) of the Sixth Directive, the Council, acting unanimously on a proposal from the Commission, may authorize any Member State to introduce special measures for derogation from the provisions of that Directive in order to simplify the procedure for charging the tax or to prevent certain types of tax evasion or avoidance;

Whereas the French Republic, by means of a letter to the Commission dated 24 July 1984 from its Permanent Representation to the Communities, requested authorization to introduce a specific measure designed to combat fraud in connection with automatic gaming machines; whereas the aim of this measure is to derogate from Article 18 (4) of the Sixth Directive which states that where for a given tax period the amount of authorized deductions exceeds the amount of tax due, the Member States may either make a refund, or carry the excess forward to the following period according to conditions which they shall determine;

Whereas under certain conditions this request is acceptable; whereas the measure in question should be applied only in clear-cut cases of fraud where the receipts from automatic gaming machines cannot be determined with certainty; whereas the measure in question should be temporary, with a limit of four years, until a way is found of fitting all such machines with meters which are proof against tampering and which make it possible to establish actual receipts or until other means of combating fraud which do not derogate from the Sixth Directive can be put into practice;

Whereas provision should be made for a re-examination of the situation after a certain period in the light of any developments in equipment permitting fraud to be avoided in the sector in question;

Whereas the said specific measure does not affect the own resources of the European Communities accruing from value added tax,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from the provisions of Article 18 (4) of the Sixth Directive, the French Republic is hereby authorized, for a limited period of four years, not to refund in respect of automatic gaming machines any deductible tax credit but to provide for it to be set against tax due in subsequent tax periods.

This measure shall not be applied to automatic gaming machines the receipts of which can be established with certainty.

Article 2

The French Republic shall, before 31 March of each year following the year of introduction of the measure provided for in Article 1, provide the Commission with the following information:

(a) the amount of deductible tax credit which has not been refunded in respect of automatic gaming machines during the preceding year;

(b) the number of meters which are proof against tampering which have been installed;

(c) other anti-fraud measures taken in this sector.

Article 3

This Decision is addressed to the French Republic.

Done at Luxembourg, 23 October 1984.

For the Council

The President

P. BARRY

(1) OJ No L 145, 13. 6. 1977, p. 1.

COMMISSION DECISION

of 13 December 1984

concerning the Federal Republic of Germany pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax

(Only the German text is authentic)

(85/36/ECSC, EEC, Euratom)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (1),

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (2), as last amended by Regulation (EEC, Euratom, ECSC) No 3625/83 (3), and in particular the first subparagraph of Article 9 (3), the second subparagraph of Article 11 (1) and Article 13 (2) thereof,

Whereas the Commission, pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77, adopted, for 1980, Decision 81/478/Euratom, ECSC, EEC (4), for 1981, Decision 82/758/ECSC, EEC, Euratom (5), for 1982, Decision 83/141/EEC, Euratom, ECSC (6) and, for 1983, Decision 84/273/Euratom, ECSC, EEC (7);

Whereas the carriage of persons by inland waterway has been taxed in the Federal Republic of Germany from 1 January 1984; whereas, in these circumstances, there is no longer any need to grant an authorization in respect of such transactions;

Whereas the Advisory Committee on Own Resources has approved the report recording the opinions of its members on this Decision,

HAS ADOPTED THIS DECISION:

Article 1

Point 6 of Article 3 of Decision 81/478/Euratom, ECSC, EEC is hereby repealed with effect from 1 January 1984.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 13 December 1984.

For the Commission

Christopher TUGENDHAT

Vice-President

(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No L 336, 27. 12. 1977, p. 8.
(3) OJ No L 360, 23. 12. 1983, p. 1.
(4) OJ No L 186, 8. 7. 1981, p. 23.
(5) OJ No L 320, 17. 11. 1982, p. 16.
(6) OJ No L 96, 15. 4. 1983, p. 45.
(7) OJ No L 135, 22. 5. 1984, p. 16.

COMMISSION DECISION

of 13 December 1984

concerning the Kingdom of the Netherlands pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax

(Only the Dutch text is authentic)

(85/37/ECSC, EEC, Euratom)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (1),

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing in respect of own resources accruing from value added tax the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (2), as last amended by Regulation (EEC, Euratom, ECSC) No 3625/83 (3), and in particular the second subparagraph of Article 9 (1) and Article 13 (2) thereof,

Whereas the Commission, pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77, adopted for 1979, Decision 80/822/EEC, Euratom, ECSC (4), for 1980, Decision, 81/440/Euratom, ECSC, EEC (5), for 1981, Decision 82/761/ECSC, EEC, Euratom (6), for 1982, Decision 83/194/EEC, Euratom, ECSC (7) and, for 1983, Decision 84/279/Euratom, ECSC, EEC (8);

Whereas the transitional arrangements applying to immovable property transactions expired on 1 January 1984; whereas, in these circumstances, there is no longer any need to grant an authorization in respect of such transactions;

Whereas the Advisory Committee on Own Resources has approved the report recording the opinions of its members on this Decision,

HAS ADOPTED THIS DECISION:

Article 1

The reference to Annex E to the Sixth Directive in Article 1 of Decision 83/194/EEC, Euratom, ECSC and point 1 of Article 1 of the Decision are hereby repealed with effect from 1 January 1984.

Article 2

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 13 December 1984.

For the Commission

Christopher TUGENDHAT

Vice-President

(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No L 336, 27. 12. 1977, p. 8.
(3) OJ No L 360, 23. 12. 1983, p. 1.
(4) OJ No L 239, 12. 9. 1980, p. 23.
(5) OJ No L 168, 25. 6. 1981, p. 24.
(6) OJ No L 320, 17. 11. 1982, p. 22.
(7) OJ No L 108, 26. 4. 1983, p. 14.
(8) OJ No L 135, 25. 5. 1984, p. 24.

No L 155/54 Official Journal of the European Communities 14. 6. 85

COUNCIL REGULATION (EEC) No 1620/85

of 13 June 1985

amending Regulation (EEC) No 3599/82 on temporary importation arrangements as regards the date of its implementation

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 28, 43 and 235 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas Article 34 of Regulation (EEC) No 3599/82 (4) stipulates that the Regulation shall be implemented one year after the adoption of the implementing provisions which will be adopted for Articles 7 (2), 10 (2), 20 (d), 21 (3) and 24 (2); whereas the said provisions were adopted by Regulation (EEC) No 1751/84 (5) on 13 June 1984; whereas, in consequence, Regulation (EEC) No 3599/82 must be implemented on 13 June 1985;

Whereas numerous difficulties have been encountered in connection with the establishment of the new arrangements introduced by Regulation (EEC) No 3599/82; whereas it is essential that the establishment of the new arrangements be implemented as smoothly as possible; whereas, therefore, it is appropriate to postpone the date of implementation of Regulation (EEC) No 3599/82 to 1 January 1986,

HAS ADOPTED THIS REGULATION:

Article 1

Article 34 of Regulation (EEC) No 3599/82 is hereby replaced by the following:

'Article 34

This Regulation shall enter into force on 1 January 1983. It shall be implemented on 1 January 1986.

Authorizations granted pursuant to national provisions before 1 January 1986 shall be revoked no later than two years after that date if they cannot be retained on the basis of the provisions of this Regulation.'

Article 2

This Regulation shall enter into force on 14 June 1985.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Luxembourg, 13 June 1985.

For the Council

The President

G. DE MICHELIS

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(1) OJ No C 117, 11. 5. 1985, p. 6.
(2) Opinion delivered on 12 June 1985 (not yet published in the Official Journal).
(3) Opinion delivered on 29 May 1985 (not yet published in the Official Journal).
(4) OJ No L 376, 31. 12. 1982, p. 1.
(5) OJ No L 171, 29. 6. 1984, p. 1.

15. 6. 85 Official Journal of the European Communities No L 156/23

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 10 June 1985

amending Directive 69/335/EEC concerning indirect taxes on the raising of capital

(85/303/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas indirect taxes on the raising of capital were harmonized at Community level by Directive 69/335/EEC (4), as last amended by Directive 74/553/EEC (5); whereas Directive 73/80/EEC (6) fixed common rates for such taxes;

Whereas the economic effects of capital duty are detrimental to the regrouping and development of undertakings; whereas such effects are particularly harmful in the present economic situation in which there is a paramount need for priority to be given to stimulating investment;

Whereas the best solution for attaining these objectives would be to abolish capital duty; whereas, however, the losses of revenue which would result from such a measure are unacceptable for certain Member States; whereas the Member States must therefore be given the opportunity to exempt from or subject to capital duty all or part of the transactions coming within its scope, it being understood that a single rate of tax must be charged within one and the same Member State;

Whereas there should be mandatory exemption for the transactions currently subject to the reduced rate of capital duty;

Whereas on 1 July 1984 no capital duty existed in Greece; whereas, for this reason, provision should be made for the possibility of introducing such duty in Greece and of exempting certain transactions from it,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 69/335/EEC is hereby amended as follows:

1. In Article 4 (2):

— the introductory phrase is replaced by the following:

'2. The following transactions may, to the extent that they were taxed at the rate of 1 % as at 1 July 1984, continue to be subject to capital duty:';

— the following subparagraph is added at the end:

'However, the Hellenic Republic shall determine which of the transactions listed above it will subject to capital duty.'

(1) OJ No C 267, 6. 10. 1984, p. 5.
(2) OJ No C 46, 18. 2. 1985, p. 77.
(3) OJ No C 87, 9. 4. 1985, p. 21.
(4) OJ No L 249, 3. 10. 1969, p. 25.
(5) OJ No L 303, 13. 11. 1974, p. 9.
(6) OJ No L 103, 18. 4. 1973, p. 15.

2. Article 7 is replaced by the following:

'Article 7

1. Member States shall exempt from capital duty transactions, other than those referred to in Article 9, which were, as at 1 July 1984, exempted or taxed at a rate of 0,50 % or less.

The exemption shall be subject to the conditions which were applicable, on that date, for the grant of the exemption or, as the case may be, for imposition at a rate of 0,50 % or less.

The Hellenic Republic shall determine which transactions it shall exempt from capital duty.

2. Member States may either exempt from capital duty all transactions other than those referred to in paragraph 1 or charge duty on them at a single rate not exceeding 1 %.

3. In the case of an increase in a company's capital in accordance with Article 4 (1) (c), following a reduction in the company's capital as a result of losses sustained, that part of the increase which corresponds to the reduction in capital may be exempted, provided this increase occurs within four years of the reduction in capital.'

3. In Article 8, the introductory phrase shall be replaced by the following:

'Subject to Article 7 (1), Member States may exempt from capital duty the transactions referred to in Article 4 (1) and (2) concerning:'.

Article 2

Directive 73/80/EEC is hereby repealed.

Article 3

Member States shall take the measures necessary to comply with this Directive not later than 1 January 1986. They shall forthwith inform the Commisson thereof.

Article 4

This Directive is addressed to the Member States.

Done at Luxembourg, 10 June 1985.

For the Council

The President

M. FIORET

No L 158/10 Official Journal of the European Communities 18. 6. 85

COMMISSION REGULATION (EEC) No 1637/85

of 17 June 1985

changing the date for giving effect to Regulation (EEC) No 1751/84 laying down certain provisions for the application of Regulation (EEC) No 3599/82 on temporary importation arrangements

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3599/82 of 21 December 1982 on temporary importation arrangements (1), as amended by Regulation (EEC) No 1680/85 (2), and in particular Article 34 thereof,

Whereas Commission Regulation (EEC) No 1751/84 of 13 June 1984 laying down certain provisions for the application of Council Regulation (EEC) No 3599/82 on temporary importation arrangements (3) should have been given effect, according to Article 31 thereof, from 13 June 1985;

Whereas the date for implementation of Regulation (EEC) No 3599/82 has been put back by Regulation (EEC) No 1680/85 to 1 January 1986;

Whereas the application of Regulation (EEC) No 1751/84 must accordingly also be postponed until that date;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Customs Processing Arrangements,

HAS ADOPTED THIS REGULATION:

Sole Article

The second paragraph of Article 31 of Regulation (EEC) No 1751/84 is hereby replaced by the following:

'It shall apply from 1 January 1986.'

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 17 June 1985.

For the Commission
Frans ANDRIESSEN
Vice-President

(1) OJ No L 376, 31. 12. 1982, p. 1.
(2) OJ No L 155, 14. 6. 1985, p. 54.
(3) OJ No L 171, 29. 6. 1984, p. 1.

16. 7. 85 Official Journal of the European Communities No L 183/21

COUNCIL DIRECTIVE

of 8 July 1985

amending Directive 83/181/EEC determining the scope of Article 14 (1) (d) of Directive 77/388/EEC as regards exemption from value added tax on the final importation of certain goods

(85/346/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas Directive 83/181/EEC (4) laid down the minimum quantity of fuel contained in the fuel tanks of commercial motor vehicles which must be exempted from value added tax on admission;

Whereas, in order to facilitate passage at the internal frontiers of the Community, the said quantity should be increased, in an initial stage, for vehicles designed for, and capable of, the transport of persons and travelling between Member States; whereas, in a second stage, the Council is to decide, on a proposal from the Commission, on the increase of the said quantity applicable to vehicles travelling between Member States and designed for, and capable of, the transport of goods,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 83/181/EEC is hereby amended as follows:

1. Article 83 is replaced by the following:

'*Article 83*

Member States may limit the application of the exemption for fuel contained in the standard fuel tanks of commercial motor vehicles:

(a) when the vehicle comes from a third country, to 200 litres per vehicle and per journey;

(b) when the vehicle comes from another Member State:

— to 200 litres per vehicle and per journey in the case of vehicles designed for, and capable of, the transport, with or without remuneration, of goods,

— to 600 litres per vehicle and per journey in the case of vehicles designed for, and capable of, the transport, with or without remuneration, of more than nine persons, including the driver.

Acting in accordance with the procedures provided for by the Treaty on this point, the Council shall decide, on a proposal from the Commission, before 1 July 1986, on the increase of the quantity of fuel admitted duty-free and contained in the standard fuel tanks of the vehicles referred to in the first indent of (b) of the first subparagraph.'

2. Article 84 (a) is replaced by the following:

'(a) commercial motor vehicles engaged in international transport coming from third countries to their frontier zone, to a maximum depth of 25 kilometres as the crow flies, where such transport consists of journeys made by persons residing in that zone;'.

Article 2

Member States shall take the necessary measures to conform with this Directive by 1 October 1985 at the latest. They shall forthwith inform the Commission thereof.

Article 3

This Directive is addressed to the Member States.

Done at Brussels, 8 July 1985.

For the Council

The President

J. SANTER

(1) OJ No C 95, 6. 4. 1984, p. 3.
(2) OJ No C 172, 2. 7. 1984, p. 15.
(3) OJ No C 248, 17. 9. 1984, p. 13.
(4) OJ No L 105, 23. 4. 1983, p. 38.

No L 183/22 Official Journal of the European Communities 16. 7. 85

COUNCIL DIRECTIVE

of 8 July 1985

amending Directive 68/297/EEC on the standardization of provisions regarding the duty-free admission of fuel contained in the fuel tanks of commercial motor vehicles

(85/347/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 75 and 99 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas Directive 68/297/EEC (4), as amended by Directive 83/127/EEC (5), laid down the minimum quantity of fuel contained in the fuel tanks of commercial motor vehicles which must be admitted duty-free at the internal frontiers of the Community;

Whereas, with a view to facilitating the crossing of these frontiers, in an initial stage the said quantity should be increased for vehicles which are designed for, and capable of, the transport of passengers; whereas the Council is to decide at a later date on the increase applicable to vehicles which are designed for, and capable of, the transport of goods;

Whereas the term 'standard fuel tank' should be defined,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 68/297/EEC is hereby amended as follows:

1. Article 1 is replaced by the following:

'*Article 1*

Member States shall, in accordance with this Directive, standardize provisions regarding the duty-free admission of fuel contained in the standard fuel tanks of commercial motor vehicles travelling across common frontiers between Member States.'

2. Article 2 is replaced by the following:

'*Article 2*

For the purposes of this Regulation:

— "commercial motor vehicle" means any motorized road vehicle which by its type of construction and equipment is designed for, and capable of, transporting, whether for payment or not:

(a) more than nine persons, including the driver;

(b) goods;

— "standard fuel tanks" means the tanks permanently fixed by the manufacturer to all motor vehicles of the same type as the vehicle in question and whose permanent fitting enables fuel to be used directly, both for the purpose of propulsion and, where appropriate, for the operation of a refrigeration system.

Gas tanks fitted to motor vehicles designed for the direct use of gas as a fuel shall also be considered to be standard fuel tanks.'

3. Paragraph 1 of Article 3 is replaced by the following:

'1. Member States shall admit duty-free the following quantities of fuel contained in standard fuel tanks of commercial motor vehicles:

(a) 200 litres per vehicle and per journey in the case of vehicles designed for, and capable of, transporting goods, with or without payment;

(b) 600 litres per vehicle and per journey in the case of vehicles designed for, and capable of, transporting more than nine persons including the driver.

Acting in accordance with the procedures provided for by the Treaty on this point, the Council shall decide, on a proposal from the Commission, before 1 July 1986, on the increase of the quantity of fuel admitted duty-free and contained in the standard fuel tanks of the vehicles referred to in (a) of the first subparagraph.'

4. Article 5 is deleted.

Article 2

Member States shall take the measures necessary to comply with this Directive not later than 1 October 1985. They shall forthwith inform the Commission thereof.

(1) OJ No C 95, 6. 4. 1984, p. 4.
(2) OJ No C 172, 2. 7. 1984, p. 15.
(3) OJ No C 248, 17. 9. 1984, p. 13.
(4) OJ No L 175, 23. 7. 1968, p. 15.
(5) OJ No L 91, 9. 4. 1983, p. 28.

Article 3

This Directive is addressed to the Member States.

Done at Brussels, 8 July 1985.

For the Council

The President

J. SANTER

No L 183/24 Official Journal of the European Communities 16. 7. 85

COUNCIL DIRECTIVE

of 8 July 1985

amending Directive 69/169/EEC on the harmonization of provisions laid down by law, regulation or administrative action relating to exemption from turnover tax and excise duty on imports in international travel

(85/348/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas it is important to facilitate travel and tourism within the Community and, to this end, to relax the controls on persons at frontiers in order that citizens can appreciate more precisely the positive effects of the existence of the Community;

Whereas, with this in mind, there should be an increase in the exemption from turnover tax and excise duty, the level of which, as laid down by Directive 69/169/EEC (4), was last amended by Directive 84/231/EEC (5); whereas the exemption which may be applied to persons under the age of 15 should also be increased;

Whereas the quantitative limits laid down by Articles 4 (1) (d) and (e) of Directive 69/169/EEC in respect of coffee and tea are liable to give rise to additional formalities at frontiers; whereas any taxes levied can yield little tax revenue; whereas arrangements should therefore be made for raising these quantitative limits in travel between Member States;

Whereas the marketing of wines produced in the Community should be promoted; whereas an increase in the quantities of wines which can be imported duty-free is likely to contribute to this objective;

Whereas tafia, saké and other similar beverages can be treated as beverages with an alcoholic strength not exceeding 22 % vol for which there is currently a tax-free limit; whereas the list of beverages covered by this limit should therefore be extended;

Whereas it should be specifically mentioned that the limit on the quantity of alcoholic beverages which can be exempted applies *a fortiori* to pure alcohol;

Whereas every two years the amounts of the exemptions and the derogations authorized should be adjusted in order to maintain the genuine values thereof;

Whereas, should the adjustment of the Community exemption give rise to a decrease in the exemption in the national currency of a Member State, the Member State in question should be allowed to preserve the amount, in national currency, which existed prior to such adjustment;

Whereas the taxation system at present in force in Denmark, Greece and in Ireland does not yet authorize application, in its entirety, of the tax exemption granted to travellers coming from other Member States, bearing in mind the economic consequences which this might cause;

Whereas, therefore, these States must be authorized to derogate from Directive 69/169/EEC with regard to the unit value of goods imported tax-free; whereas, in addition, the Kingdom of Denmark should be authorized to apply a reduced quantitative limit for still wines;

Whereas Directive 84/231/EEC authorized the Kingdom of Denmark to derogate from Directive 69/169/EEC with regard to the import of certain products by travellers having their residence in Denmark, after having stayed in another country for less than 48 hours;

Whereas the taxation system at present applied in Denmark does not permit of any limitations on the application of this rule on 31 December 1985 without the risk of economic consequences; whereas, therefore, the application thereof should be extended until 31 December 1987,

(1) OJ No C 114, 28. 4. 1983, p. 4 and OJ No C 81, 22. 3. 1984, p. 6.
(2) OJ No C 10, 16. 1. 1984, p. 44.
(3) OJ No C 57, 29. 2. 1984, p. 12.
(4) OJ No L 133, 4. 6. 1969, p. 6.
(5) OJ No L 117, 3. 5. 1984, p. 42.

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 69/169/EEC is hereby amended as follows:

1. In Article 2:

(a) in paragraph 1, 'as from 1 July 1984, 280 ECU' is replaced by '350 ECU';

(b) in paragraph 2, 'up to 60 ECU' is replaced by 'up to 90 ECU';

(c) the following paragraph is added:

'6. Every two years, and for the first time on 31 October 1987 at the latest, the Council, acting in accordance with the procedures provided for by the Treaty on this point, shall adjust the amounts of the exemptions referred to in paragraphs 1 and 2 in order to maintain the genuine value.'

2. In Article 4 (1) the table is replaced by the following:

	I Travel between third countries and the Community	II Travel between Member States
(a) Tobacco products:		
cigarettes or	200	300
cigarillos (cigars of a maximum weight of 3 grammes each) or	100	150
cigars or	50	75
smoking tobacco	250 g	400 g
(b) Alcohol and alcoholic beverages:		
— distilled beverages and spirits of an alcoholic strength exceeding 22 % vol; undenatured ethyl alcohol of 80 % vol and over	a total of 1 litre	a total of 1,5 litres
or distilled beverages and spirits, and aperitifs with a wine or alcohol base, tafia, saké or similar beverages of an alcoholic strength not exceeding 22 % vol; sparkling wines, fortified wines and	a total of 2 litres	a total of 3 litres
— still wines	a total of 2 litres	a total of 5 litres
(c) Perfumes	50 g	75 g
and toilet waters	¼ litre	⅜ litre
(d) Coffee	500 g	1 000 g
or coffee extracts and essences	200 g	400 g
(e) Tea	100 g	200 g
or tea extracts and essences	40 g	80 g

3. In Article 6 (4), (b) is supplemented by the following:

'proving that the turnover tax has been or will be applied.

4. At the end of Article 7 (4), the following is added:

'or to a lowering of this exemption.'

5. The following subparagraph is added to Article 7a:

'It shall be open to Member States not to levy turnover tax or excise duty on the import of goods by a traveller when the amount of the tax which should be levied is equal to, or less than, 5 ECU.'

6. The following Articles are added:

'Article 7b

1. By way of derogation from Article 2 (1):

(a) the Kingdom of Denmark and the Hellenic Republic shall be authorized to exclude, from the exemption, goods the unit value of which exceeds 280 ECU;

(b) Ireland shall be authorized to exclude, from the exemption, goods the unit value of which exceeds 77 ECU.

2. By way of derogation from Article 2 (2), Ireland shall be authorized to exclude, from the exemption, goods the unit value of which exceeds 77 ECU.

3. Throughout the period during which the derogations referred to in paragraph 1 are applied, the other Member States shall take the measures necessary to enable remission of tax, according to the procedures referred to in Article 6, to take place for goods imported into Denmark, into Greece and into Ireland which are excluded from the exemption in these countries.

4. Every two years, and for the first time on 31 October 1987 at the latest, the Council, acting in accordance with the procedures provided for by the Treaty on this point, shall adjust the amounts of the exemptions referred to in paragraphs 1 and 2 in order to maintain the genuine value.

Article 7c

1. By way of derogation from Article 4 (1), the Kingdom of Denmark shall be authorized:

(a) to apply to still wines, in trade between Member States, a limit of four litres;

(b) in respect of exemption on importation of the goods referred to below, to apply the following quantitative limits, where such goods are imported by travellers resident in Denmark, after a stay in another country:

— until 31 December 1987, following a stay of less than 48 hours,

— from 1 January 1988 to 31 December 1989, following a stay of less than 24 hours:

	from 1 January 1985 to 31 December 1986	from 1 January 1987 to 31 December 1987	from 1 January 1988 to 31 December 1988	from 1 January 1989 to 31 December 1989
Cigarettes	60	140	200	240
or				
smoking tobacco where the tobacco particles have a width of less than 1,5 mm (fine cut)	100 g	200 g	250 g	300 g
Distilled beverages and spirits of an alcoholic strength exceeding 22 % vol	Nil	0,35	0,35	0,7

2. Directive 84/231/EEC is hereby repealed as from 30 September 1985.'

Article 2

1. Member States shall implement the measures necessary to conform with this Directive on 1 October 1985.

2. Member States shall inform the Commission of the provisions which they adopt to implement this Directive.

Article 3

This Directive is addressed to the Member States.

Done at Brussels, 8 July 1985.

For the Council

The President

J. SANTER

16. 7. 85 Official Journal of the European Communities No L 183/27

COUNCIL DIRECTIVE

of 8 July 1985

amending Directive 74/651/EEC on the tax reliefs to be allowed on the importation of goods in small consignments of a non-commercial character within the Community

(85/349/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas the system of reliefs on small consignments sent from one private person to another should be further developed, thereby contributing to the creation of an economic market with characteristics similar to those of a domestic market while, at the same time, facilitating personal and family contacts between private persons in different Member States;

Whereas the amounts of the reliefs from turnover taxes and excise duties laid down by Council Directive 74/651/EEC (4), as last amended by Directive 81/934/EEC (5), should be increased in order to take account of trends in the cost of living throughout the Community;

Whereas the taxation system currently in force in Ireland does not yet authorize the full application of tax relief to be allowed on small consignments of a non-commercial character within the Community; whereas that State should therefore be authorized to derogate from Directive 74/651/EEC;

Whereas the amounts of the reliefs and the authorized derogations should be adjusted every two years in order to maintain real value,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 74/651/EEC is hereby amended as follows:

1. In Article 1:

   (a) in paragraph 2 (d), '70 ECU' is replaced by '100 ECU';

   (b) The following paragraph is inserted:

   '2a. Notwithstanding paragraph 2 (d), Ireland shall be authorized to exclude from relief those goods the unit value of which is greater than 77 ECU'.

   (c) The following paragraph is inserted:

   '4. Every two years, and for the first time on 31 October 1987 at the latest, the Council, acting in accordance with the procedures laid down by the Treaty in the matter, shall adjust the amounts of the reliefs referred to in paragraphs 2 and 2a in order to maintain real value.'

2. The following Article is inserted after Article 1a:

'Article 1b

Where the value of goods contained in a small consignment within the meaning of Article 1 exceeds the amounts mentioned in that Article, turnover taxes and/or excise duties need not apply where the total amount to be levied is less than 3 ECU'.

Article 2

1. Member States shall bring into force the measures necessary to comply with this Directive not later than 1 October 1985.

2. Member States shall inform the Commission of the provisions which they adopt to implement this Directive.

(1) OJ No C 3, 6. 1. 1984, p. 5 and OJ No C 189, 17. 7. 1984, p. 7.
(2) OJ No C 127, 14. 5. 1984, p. 26.
(3) OJ No C 103, 16. 4. 1984, p. 2.
(4) OJ No L 354, 30. 12. 1974, p. 57.
(5) OJ No L 338, 25. 11. 1981, p. 25.

Article 3

This Directive is addressed to the Member States.

Done at Brussels, 8 July 1985.

For the Council
The President
J. SANTER

No L 192/18 Official Journal of the European Communities 24. 7. 85

II

(Acts whose publication is not obligatory)

COUNCIL

TWENTIETH COUNCIL DIRECTIVE

of 16 July 1985

on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: derogations in connection with the special aids granted to certain farmers to compensate for the dismantlement of monetary compensatory amounts applying to certain agricultural products

(85/361/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas Council Regulation (EEC) No 855/84 of 31 March 1984 on the calculation and dismantlement of the monetary compensatory amounts applying to certain agricultural products (4) provided for an adaptation of the representative rates which, in the case of the Federal Republic of Germany, must, on 1 January 1985, entail lower prices when expressed in national currency and consequently lower farm incomes; whereas, by way of compensation, the possibility of granting special national aids to which the Community would contribute on a temporary and degressive basis was provided for in that Regulation;

Whereas Article 3 of the said Regulation thus authorized Germany to grant a special aid, using value added tax as an instrument, of an amount not exceeding 3 % of the price excluding VAT paid by the purchaser of the agricultural product;

Whereas Council Decision 84/361/EEC of 30 June 1984 concerning an aid granted to farmers in the Federal Republic of Germany (5), authorized Germany to exceed this limit and to apply a percentage of 5 % for the period between 1 July 1984 and 31 December 1988; whereas, as a result, it is necessary that this Directive shall apply from 1 July 1984;

Whereas, however, the compensation thus granted should not exceed the effects of the dismantlement of monetary compensatory amounts;

Whereas the temporary and degressive nature of the consequences of the dismantlement of monetary compensatory amounts requires that the period for which the special aid of 3 % is to be granted should be limited to 31 December 1991;

Whereas it is necessary that Germany takes steps to ensure that the own resources relating to the transactions covered by this Directive are not affected by the application of this Directive;

(1) OJ No C 214, 14. 8. 1984, p. 8 and OJ No C 131, 30. 5. 1985, p. 12.
(2) OJ No C 122, 20. 5. 1985, p. 152.
(3) OJ No C 307, 19. 11. 1984, p. 33.
(4) OJ No L 90, 1. 4. 1984, p. 1.
(5) OJ No L 185, 12. 7. 1984, p. 41.

Whereas, having regard to the purpose for which Germany has been authorized to grant the special aid, it is necessary for the measures taken in pursuance of that authorization and by virtue of this Directive to be reviewed and evaluated by the Commission; whereas this may conveniently be effected by means of an annual report to be presented to the European Parliament and the Council;

Whereas, in the framework of this Directive, the Commission is to fix, on the basis of the information provided by Germany and after consultation of the Advisory Committee on VAT Own Resources, the definitive amount of VAT own resources due by Germany relating to transactions covered by this Directive,

HAS ADOPTED THIS DIRECTIVE:

Article 1

By way of derogation from Directive 77/388/EEC, Germany is hereby authorized to use value added tax in order to grant the special aid permitted in Regulation (EEC) No 855/84 and Decision 84/361/EEC.

Article 2

1. Value added tax may be used as an instrument to grant the aid only within the limit of 3 % authorized in Article 3 of Regulation (EEC) No 855/84.

2. However, in accordance with Decision 84/361/EEC, the percentage referred to in paragraph 1 may be increased up to 5 % until 31 December 1988.

Article 3

Germany shall take the necessary steps to ensure that the own resources relating to the transactions covered by this Directive are not affected by the application of Articles 1 and 2.

Article 4

The Commission shall draw up a report each year on the operation of the aid mechanism during the previous year, which shall be submitted to the European Parliament and the Council by 1 March of the following year at the latest; the report should contain details of the measures taken by Germany and their implementation, having particular regard to the objectives pursued in setting up the aid mechanism, fiscal neutrality and the effects of the measures on the Community's own resources.

Article 5

On the basis of the information to be provided by Germany, and after consultation of the Advisory Committee on VAT Own Resources, the Commission shall decide the definitive amount of VAT own resources due by Germany relating to the transactions coverd by this Directive. For this purpose, a special deadline appropriate to this procedure shall be adopted by appropriate amendments of the general rules concerning own resources.

Article 6

Germany shall communicate to the Commission details of the measures which it adopts for the application of this Directive.

Article 7

This Directive shall be applicable with effect from 1 July 1984 until 31 December 1991 at the latest.

Article 8

This Directive is addressed to the Federal Republic of Germany.

Done at Brussels, 16 July 1985.

For the Council

The President

M. FISCHBACH

No L 192/20 Official Journal of the European Communities 24. 7. 85

SEVENTEENTH COUNCIL DIRECTIVE

of 16 July 1985

on the harmonization of the laws of the Member States relating to turnover taxes — Exemption from value added tax on the temporary importation of goods other than means of transport

(85/362/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas it is important to reduce fiscal barriers to the movement of goods within the Community in order to facilitate the supply of services and thus develop and strengthen the internal market;

Whereas the widest possible exemption from value added tax for goods temporarily imported from one Member State to another will contribute towards the realization of this objective;

Whereas it is advisable to exclude from the scope of such an exemption the products which are intended for final consumption when first used;

Whereas, pursuant to Article 14 (1) (c) of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (4), Member States shall, without prejudice to other Community provisions and under conditions which they shall lay down for the purpose *inter alia* of preventing any possible evasion, avoidance or abuse, exempt importation of goods declared to be under temporary importation arrangements and which thereby qualify for exemption from customs duties or would so qualify if they were imported from a third country;

Whereas, in accordance with Article 14 (2) of Directive 77/388/EEC, the Commission is required to submit to the Council proposals designed to lay down Community tax rules clarifying the scope of the exemptions referred to in paragraph 1 of the said Article and detailed rules for their implementation;

Whereas, in accordance with Article 16 (1) (D) of the abovementioned Directive, Member States may take special measures designed to relieve from value added tax supplies of goods still subject to temporary importation arrangements;

Whereas, in accordance with Article 16 (3) of Directive 77/388/EEC, the Commission is required to submit to the Council proposals concerning common arrangements for applying value added tax to the transactions referred to in paragraph 1 of the said Article;

Whereas, for imports from third countries it is desirable to achieve the greatest possible degree of uniformity between the system for customs duties and that for value added tax, particularly since many temporary importation exemptions stem from multilateral international conventions which apply to all duties and taxes payable on or in connection with importation;

Whereas it must be possible in certain circumstances for Member States to refuse or withdraw the benefit of temporary importation exemption for value added tax or to require security in order to prevent avoidance or abuse;

Whereas temporary importation exemption from value added tax should apply only in cases where goods are intended to be used for the purposes which qualify them for exemption and then to be re-exported; whereas it is therefore necessary to provide for the surveillance of the arrangements in order to ensure that value added tax becomes chargeable in cases when goods cease to be eligible for exemption;

Whereas, as an exception to the basic rules on temporary importation arrangements, there would be an administrative simplification if certain goods which are imported with a view to sale were to be allowed the benefit of temporary importation exemption from value added tax for a strictly limited period;

Whereas provision should be made for appropriate periods to allow for adjustment to national legislation in certain fields,

(1) OJ No C 244, 13. 9. 1984, p. 4 and OJ No C 68, 15. 2. 1985, p. 6.
(2) OJ No C 12, 14. 1. 1985, p. 111.
(3) OJ No C 25, 28. 1. 1985, p. 8.
(4) OJ No L 145, 13. 6. 1977, p. 1.

HAS ADOPTED THIS DIRECTIVE:

TITLE I

GENERAL

Article 1

1. Member States shall, in accordance with this Directive, exempt from value added tax temporary imports of the goods referred to therein, and shall lay down the conditions for ensuring that such exemptions are correctly and simply applied and for preventing any evasion, avoidance, or abuse.

Member States may also, for any subsequent supply of services using these goods, lay down conditions to ensure correct and straightforward taxation and prevent any evasion, avoidance or abuse.

2. Means of transport, pallets and containers shall be excluded from the scope of this Directive.

3. This Directive defines, for goods other than those referred to in paragraph 2:

(a) the scope of the exemption from value added tax for imported goods declared to be under the customs arrangements for temporary importation referred to in Article 14 (1) (c) of Directive 77/388/EEC and the detailed rules for its implementation referred to in Article 14 (2) thereof;

(b) the common arrangements referred to in Article 16 (3) of Directive 77/388/EEC for relieving from value added tax supplies of goods still subject to temporary importation arrangements.

4. For the purposes of this Directive:

(a) the 'territory of a Member State' means the 'territory of the country' as defined in Article 3 of Directive 77/388/EEC;

(b) 'temporary importation exemption' means the arrangements whereby goods which are intended to remain temporarily in the territory of a Member State and to be re-exported may be imported with exemption from value added tax in accordance with the conditions laid down by this Directive;

(c) 'competent authorities' means the authorities of the Member State to whom application must be made for goods to benefit from temporary importation exemption;

(d) 'person' means a natural or legal person.

Article 2

1. The competent authorities shall, using an authorization procedure, grant the benefit of temporary importation exemption to any person who, on his own responsibility, uses or causes to be used the goods for which exemption is requested.

2. The competent authorities shall take all measures which they consider necessary to ensure that the goods can be identified and that the use to which they are put can be verified.

3. The competent authorities may:

(a) refuse to grant temporary importation exemption if it is considered impossible to identify the goods in question or to verify their use;

(b) refuse to grant the benefit of exemption to persons who do not provide all the guarantees considered necessary, and in particular to persons who have previously made improper use of a temporary importation exemption or who have committed a serious infringement of customs or fiscal legislation.

Article 3

1. At the time when the benefit of temporary importation exemption is granted, the competent authorities may require security to be given to ensure payment of value added tax which may become due when a chargeable event occurs within the meaning of Article 8.

2. For goods imported temporarily from one Member State to another, if security is required, the person to whom the benefit of temporary importation exemption has been granted may choose whether it shall be given by:

(a) making a cash deposit in the currency of the Member State in which security is required;

(b) a guarantor who has his normal residence or an establishment in the Member State in which security is required and who is approved by the competent authorities of that Member State; or

(c) any other guarantee acceptable to the competent authorities of the Member State in which security is required.

3. If a security is required it shall not exceed the amount of value added tax that would have been due on the value of the goods at the time of their importation if they had been declared for home use at that time.

4. No security shall be required:

(a) for goods covered by the procedure provided for in Council Regulation (EEC) No 3/84 of 19 December 1983 introducing arrangements for movement within the Community of goods sent from one Member State for temporary use in one or more other Member States (1);

(1) OJ No L 2, 4. 1. 1984, p. 1.

(b) for goods imported either from another Member State or a third country in the cases determined in accordance with Articles 3 and 33 of Council Regulation (EEC) No 3599/82 of 21 December 1982 on temporary importation arrangements (1).

Article 4

1. Persons to whom the benefit of temporary importation exemption has been granted shall be required to submit to the surveillance and inspection measures prescribed by the competent authorities.

2. The competent authorities may revoke the benefits of temporary importation exemption if they find that a person benefiting from them has not complied with one or more of the conditions under which they were granted.

Article 5

1. The competent authorities shall fix the period during which the goods may remain in the territory under the temporary importation exemption arrangements by reference to the authorized use. Without prejudice to the limits laid down in Articles 14, 15, 16, 18, 21, 26, 28 and 29, the maximum duration of this period shall be 24 months.

2. However, where exceptional circumstances so justify, the competent authorities may, at the request of the holder of the authorization, extend within reasonable limits and subject to the conditions laid down by this Directive, the periods referred to in paragraph 1, with the exception of that referred to in Article 28, in order to permit the authorized use.

Article 6

The competent authorities shall authorize the transfer of the benefit of temporary importation exemption to any other person, at that person's request, where he satisfies the conditions laid down in this Directive and assumes all obligations incumbent on the holder of the original authorization, particularly those arising from the fixing of the period during which the goods may remain under temporary importation exemption.

Article 7

Member States shall exempt supplies of goods within the meaning of Article 5 of Directive 77/388/EEC from value added tax provided that the purchaser is a person established outside the territory of the Member State of importation and the goods continue to remain eligible for temporary importation exemption.

Article 8

1. The benefit of temporary importation exemption shall terminate without the occurrence of a chargeable event if goods benefiting from the exemption are:

(a) exported outside the territory of the Member State;

(b) placed with a view to their subsequent exportation:

— under warehouse arrangements,

— in a free zone, or

— under Community transit arrangements, or one of the sets of international transport arrangements referred to in Article 7 (1) of Council Regulation (EEC) No 222/77 of 13 December 1976 on Community transit (2), provided that Community law allows the use of such arrangements; or

(c) destroyed under customs control or are proved, to the satisfaction of the competent authorities, to have been totally destroyed or irretrievably lost as the result of the nature of the goods or of unforeseeable circumstances or *force majeure*. For the purposes of this subparagraph, goods shall be irretrievably lost, if, following their disappearance, they are incapable of being used by anyone.

2. A chargeable event shall occur and tax shall become chargeable:

(a) when, in exceptional cases and cases covered by Article 13, the competent authorities authorize goods benefiting from temporary importation exemption to be declared for home use;

(b) when goods which are recoverable in the form of waste products resulting from duly authorized destruction are declared for home use; or

(c) when the goods referred to in Article 29 are declared for home use.

3. If one of the conditions under which the benefits of temporary importation exemption were granted ceases to be fulfilled and the exemption is not terminated in accordance with paragraph 1, the goods shall cease to be covered by these arrangements. In such cases a chargeable event shall be considered to have occurred and value added tax shall become chargeable accordingly either at the moment when the condition ceased to be fulfilled or at the time when the goods entered the territory of the Member State if it is established that the condition was never fulfilled.

4. Where goods are released for home use and the importer is a non-taxable person or a taxable person not entitled to deduct the tax in full, Member States

(1) OJ No L 376, 21. 12. 1982, p. 1.

(2) OJ No L 38, 9. 2. 1977, p. 1.

may deem a chargeable event to have occurred at the time when the goods entered the territory of the Member State in order to combat major distortions of competition.

Article 9

1. Without prejudice to Article 28, temporary importation exemption shall not be granted for goods temporarily imported from third countries with partial or total relief from import duties under the provisions of Title III of Regulation (EEC) No 3599/82.

2. For goods which are eligible for partial relief from import duties, the chargeable event for value added tax shall occur at the time when the goods enter the territory of the Member State. In such cases, Member States may provide for value added tax to become chargeable either at the moment when the chargeable event occurs or when the import duties are levied.

If the tax is charged at the moment when the chargeable event occurs, the taxable amount shall be adjusted accordingly when the amount of import duties due under partial relief is levied. Member States may, however, waive the requirement for adjustment when the importer is a taxable person entitled to deduct the full amount of value added tax due in respect of the imported goods.

TITLE II

SCOPE OF THE TEMPORARY IMPORTATION EXEMPTION FOR GOODS IMPORTED INTO ONE MEMBER STATE FROM ANOTHER

Article 10

Temporary importation exemption shall be granted for goods temporarily imported into one Member State from another provided that such goods:

(a) are intended to be re-exported without alteration;

(b) satisfy the conditions laid down in Articles 9 and 10 of the Treaty establishing the European Economic Community, or in the case of goods falling under the Treaty establishing the European Coal and Steel Community, are in free circulation;

(c) have been acquired subject to the rules governing the application of value added tax in the Member State of exportation, and have not benefited, by virtue of their exportation, from any exemption from value added tax;

(d) belong to a person established outside the territory of the Member State of importation; and

(e) are not consumable goods.

Article 11

Any goods imported into one Member State from another which do not qualify for exemption under Article 10 shall qualify for temporary importation exemption if, had they been imported from a third country, they would qualify for such exemption under Title III.

However, temporary importation exemption is not granted in instances where:

(a) the goods meet the condition laid down in Articles 9 and 10 of the Treaty establishing the European Economic Community;

(b) the goods were not acquired pursuant to the rules governing the application of value added tax in the Member State of exportation or, by virtue of being exported, benefited from exemption from value added tax; and

(c) the importer is a non-taxable person or is a taxable person not entitled to deduction in full.

TITLE III

SCOPE OF THE TEMPORARY IMPORTATION EXEMPTION FOR GOODS IMPORTED FROM A THIRD COUNTRY

Chapter 1

Professional equipment

Article 12

1. Temporary importation exemption shall be granted for professional equipment.

2. 'Professional equipment' means the equipment and accessories needed for the exercise of his trade or profession by a person established outside the territory of a Member State who is in that Member State to perform a particular job of work, inasmuch as such equipment falls within the scope of Article 7 of Regulation (EEC) No 3599/82.

3. The exemption referred to in paragraph 1 shall be granted, provided that the professional equipment is:

(a) owned by a person established outside the territory of the Member State;

(b) imported by a person established outside the said territory; and

(c) to be used exclusively by the person entering the said territory, or under his supervision.

However, the condition referred to in (c) shall not apply to cinematographic equipment imported for the purpose of producing films under a co-production contract concluded with a person established in the territory of the Member State of importation.

In the case of joint radio or television programme productions, professional equipment may be the subject of a hire-contract or similar contract to which a person established in the territory of the Member State of importation is party.

4. Exemption shall be granted, in the same way as for the equipment itself, for any spare parts subsequently imported for the repair of the equipment referred to in paragraph 1.

Chapter 2

Goods for display or use at an exhibition, fair, symposium or similar event

Article 13

1. Temporary importation exemption shall be granted for:

(a) goods intended for display or to be the subject of a demonstration at an event;

(b) goods intended for use at an event for the purpose of presenting imported products, such as:

— goods necessary for the demonstration of imported machinery or apparatus on exhibition,

— equipment, including electrical fittings, used for constructing and decorating the temporary stands of a person established outside the territory of the Member State of importation,

— advertising material and demonstration and other equipment intended for use in publicizing imported goods on exhibition, such as sound recordings, films and transparencies, together with the apparatus required in connection with their use;

(c) equipment, including interpreting installations, sound-recording apparatus and educational, scientific or cultural films, intended for use at international meetings, conferences and symposia;

(d) live animals intended for exhibition at, or participation in, an event;

(e) products obtained during an event from goods, machinery, apparatus or animals imported temporarily.

2. An 'event' means:

(a) a trade, industrial, agricultural or craft exhibition, fair, or similar show or display;

(b) an exhibition or meeting which is organized primarily to promote a charitable purpose;

(c) an exhibition or meeting which is organized primarily to promote any branch of learning, art, craft, sport or scientific, technical, educational, cultural, trade union or tourist activity, or to promote friendship between peoples or to promote religious knowledge or worship;

(d) a meeting of representatives of international organizations or international groups of organizations;

(e) a ceremony or event of an official or commemorative character;

except exhibitions organized for private purposes in shops or business premises with a view to sale of the goods imported.

Chapter 3

Teaching aids and scientific equipment

Article 14

1. Temporary importation exemption shall be granted for:

(a) teaching aids;

(b) spare parts and accessories for such aids;

(c) tools especially designed for the maintenance, checking, calibration or repair of such aids.

2. 'Teaching aid' means any aid intended for the exclusive purpose of teaching or vocational training, and in particular models, instruments, apparatus, machines and accessories thereof, inasmuch as such aids fall within the scope of Article 10 of Regulation (EEC) No 3599/82.

3. The exemption referred to in paragraph 1 shall be granted provided that the teaching aids, spare parts, accessories or tools:

(a) are imported by public or private teaching or vocational training establishments which are essentially non-profit making and have been approved by the competent authorities for the purposes of this exemption and are used under the supervision and responsibility of such establishments;

(b) are used for non-commercial purposes;

(c) are imported in reasonable quantities, having regard to their intended purposes; and

(d) remain throughout their stay in the territory of the Member State of importation the property of a person who is established outside that Member State.

4. The period during which such teaching aids may be granted exemption shall not exceed six months.

Article 15

1. Temporary importation exemption shall be granted for:

(a) scientific equipment and accessories;

(b) spare parts for equipment referred to under (a);

(c) tools specially designed for the maintenance, checking, calibration or repair of scientific equipment used in the territory of the Member State of importation exclusively for purposes of scientific research or teaching.

2. 'Scientific equipment' means instruments, apparatus, machines and accessories thereof used solely for the purpose of scientific research or education.

3. The exemption referred to in paragraph 1 shall be granted provided that the scientific equipment, accessories, spare parts and tools:

(a) are imported by scientific or teaching establishments which are essentially non-profit making and have been approved by the competent authorities for the purposes of this exemption and are used under the supervision and responsibility of such establishments;

(b) are used for non-commercial purposes;

(c) are imported in reasonable numbers having regard to their intended purposes; and

(d) remain throughout their stay in the territory of the Member State of importation the property of a person who is established outside the territory of that Member State.

4. The period during which such scientific equipment may be granted exemption shall not exceed six months.

Chapter 4

Medical, surgical and laboratory equipment

Article 16

1. Temporary importation exemption shall be granted for medical, surgical and laboratory equipment intended for hospitals and other medical institutions provided that the said equipment:

(a) has been dispatched on an occasional basis, on loan and free of charge; and

(b) is intended for diagnostic or therapeutic purposes.

2. The period during which medical, surgical and laboratory equipment may be granted exemption shall not exceed six months.

Chapter 5

Materials for use in countering the effects of disasters

Article 17

1. Temporary importation exemption shall be granted for materials for use in connection with measures taken to counter the effects of disasters affecting the territory of the Member State of importation, provided that such materials:

(a) have been imported on loan and free of charge; and

(b) are intended for State bodies or bodies approved by the competent authorities.

Chapter 6

Packings

Article 18

1. Temporary importation exemption shall be granted for packings.

2. 'Packings' means:

(a) holders used, or to be used, as external or internal coverings for goods;

(b) holders on which goods are, or are to be, rolled, wound or attached;

but excluding packing materials such as straw, paper, glass wool and shavings when imported in bulk.

3. The exemption referred to in paragraph 1 shall be granted provided that:

(a) if the packings are imported filled, they are declared as being for re-exportation empty or filled; or

(b) if the packings are imported empty, they are declared as being for re-exportation filled.

4. Packings admitted under temporary importation exemption cannot be used, even as an exception, between two points located within the territory of the Member State of importation except with a view to the export of goods outside that territory. In the case of packings imported filled, this ban shall apply only from the time that their contents are emptied.

5. The period during which such packings may be granted exemption shall not exceed six months where they are imported filled or three months where they are imported empty.

Chapter 7

Travellers' personal effects

Article 19

1. Temporary importation exemption shall be granted in respect of the personal effects which travellers are carrying on their person or in their personal luggage for the duration of their stay in the territory of the Member State of importation.

2. 'Personal effects' means any clothing and other new or used articles intended for the personal use of the traveller.

'Personal luggage' shall have the meaning ascribed to it in Council Directive 69/169/EEC of 28 May 1969 on the harmonization of provisions laid down by law, regulation or administrative action relating to exemption from turnover tax and excise duty on imports in international travel (1).

Chapter 8

Commercial samples, advertising material and goods for demonstration purposes

Article 20

Temporary importation exemption shall be granted in respect of:

(a) samples which are representative of a particular category of goods and which are intended to be displayed or used for demonstration purposes with a view to obtaining orders for similar goods;

(b) films demonstrating the nature or the operation of foreign equipment or products provided that they are not intended for public showing for charge;

(c) tourist publicity material falling within the scope of Article 20 (d) of Regulation (EEC) No 3599/82;

(d) goods of any kind which are to be subjected to tests, experiments or demonstrations, including the tests and experiments required for type-approval procedures, but excluding any tests, experiments or demonstrations constituting a gainful activity;

(e) goods of any kind to be used to carry out tests, experiments or demonstrations, but excluding any tests, experiments or demonstrations constituting a gainful activity.

(1) OJ No L 133, 4. 6. 1969, p. 6.

Chapter 9

Welfare material for seafarers

Article 21

1. Temporary importation exemption shall be granted for welfare material for seafarers.

2. The following definitions shall apply:

— 'Welfare material' means material intended for cultural, educational, recreational, religious or sporting activities by seafarers, inasmuch as such material falls within the scope of Article 21 of Regulation (EEC) No 3599/82,

— 'Seafarers' means all persons transported on board a vessel and responsible for tasks relating to the operation or servicing of the vessel at sea.

3. The exemption referred to in paragraph 1 shall be granted provided that the material is:

(a) disembarked from a vessel for temporary use on land by the crew for a period not exceeding that of the vessel's stay in port;

(b) imported for temporary use in cultural or social establishments for a period not exceeding six months. 'Cultural or social establishments' means hostels, clubs and recreational premises for seafarers, managed by either official bodies or religious or other non-profit-making organizations, and also places of worship where regular services are held for seafarers.

Chapter 10

Goods for use by public authorities in border zones

Article 22

Temporary importation exemption shall be granted for the various equipment used, under the supervision and responsibility of a public authority, for the building, repair or maintenance of infrastructure of general importance in border zones.

Chapter 11

Animals

Article 23

Temporary importation exemption shall be granted for:

(a) live animals of any species imported for dressage, training or breeding purposes or in order to be given veterinary treatment;

(b) live animals of any species imported for transhumance or grazing purposes;

(c) draught animals and equipment belonging to persons established outside the territory of the Community but in close proximity to the territory of the Member State of importation provided that they are imported by such persons for working land located inside that territory, involving the performance of agricultural work or the unloading or transport of timber.

Chapter 12

Films, tapes and other carrier material for recorded sound

Article 24

Temporary importation exemption shall be granted for:

(a) positive cinematograph films, printed and developed, intended for projection prior to commercial use;

(b) films, magnetic tapes and wires which are intended to be provided with a sound track, dubbed or copied;

(c) carrier material for recorded sound and data-processing, including punched cards, made available free of charge to a person whether or not established in the territory of the Member State of importation.

Chapter 13

Goods for use in production for export

Article 25

Temporary importation exemption shall be granted for:

(a) moulds, dies, blocks, drawings, sketches and other similar articles intended for a person established in the territory of the Member State of importation, where at least 75 % of the production resulting from their use is exported from the territory of the Community;

(b) measuring, checking and testing instruments and other similar articles intended for a person established in the territory of the Member State of importation for use in a manufacturing process, where at least 75 % of the production resulting from their use is exported from the territory of the Community;

(c) special tools and instruments made available free of charge to a person established in the territory of the Member State of importation for use in the manufacture of goods which are to be exported in their entirety, on condition that such special tools and instruments remain the property of the consignee of the said goods.

Chapter 14

Replacement means of production

Article 26

1. Temporary importation exemption shall be granted for replacement means of production made temporarily available free of charge to the importer on the initiative of the supplier of similar means of production to be subsequently imported for release for home use or for means of production re-installed after repair.

2. The period during which these replacement means of production may remain under temporary importation exemption may not exceed six months.

Chapter 15

Other cases in which temporary importation exemption may be granted

Article 27

The competent authorities of the Member State of importation shall grant temporary importation exemption when they consider that it concerns a particular case which has no economic effect.

Article 28

Member States may grant temporary importation exemption for goods temporarily imported for non-commercial reasons on an occasional basis for a limited period of no more than six months when the importer is not entitled to a full deduction or refund of the value added tax which would otherwise be due in respect of imported goods.

TITLE IV

GOODS IMPORTED FOR POSSIBLE SALE

Article 29

1. By way of derogation from Article 1 (4) (b), temporary importation exemption shall be granted for:

(a) second-hand goods imported with a view to their sale by auction;

(b) goods imported under a contract of sale, which are to be subjected to satisfactory acceptance tests;

(c) consignments on approval of made-up articles of fur, precious stones, carpets and articles of jewellery provided that their particular characteristics prevent their being imported as samples;

(d) works of art and other goods intended for decoration but not generally for utility purposes, which are imported for the purposes of exhibition, with a view to possible sale.

2. Paragraph 1 (d) shall apply to the following goods :

— paintings, drawings and pastels, including copies, executed entirely by hand, excluding hand-decorated manufactured wares and industrial drawings (heading No 99.01 of the Common Customs Tariff),

— lithographs, prints and engravings, signed and numbered by the artist, obtained from lithographic stones, plates or other engraved surfaces, executed entirely by hand (heading No 99.02 of the Common Customs Tariff),

— original sculptures and statuary, excluding mass-produced reproductions and handicrafts of a commercial nature (heading No 99.03 of the Common Customs Tariff),

— tapestries (heading No 58.03 of the Common Customs Tariff) and wall textiles (subheading ex 62.02 B IV of the Common Customs Tariff) made by hand from original designs provided by artists, provided that there is not more than one example of each,

— original ceramics and mosaics on wood.

3. The exemption referred to in paragraph 1 shall apply to goods imported both from other Member States and from third countries.

4. The period during which exemption may be granted for the goods referred to in paragraph 1 may not exceed six months in the case of paragraph 1 (a), (b) and (d) and four weeks in that of paragraph 1 (c).

5. The price paid by the first purchaser of the goods in the Member State of importation shall be taken as the taxable amount if the goods cease to be eligible for temporary importation exemption.

TITLE V

FINAL PROVISIONS

Article 30

Any reference in other Community provisions to Articles 14 (1) (c) and 16 (1) (d) of Directive 77/388/EEC shall be considered as likewise referring to this Directive.

Article 31

1. Member States shall bring into force the measures necessary to comply with this Directive not later than 1 January 1986 and shall forthwith inform the Commission thereof.

However,

— the Federal Republic of Germany is hereby authorized to delay implementation of Article 7 until 1 January 1987,

— the Hellenic Republic is hereby authorized to delay implementation of Article 9 until 1 January 1989.

2. Authorizations granted pursuant to national provisions before the Member States have brought into force the measures necessary to comply with this Directive shall be revoked no later than two years after the entry into force of these measures if they cannot be retained on the basis of this Directive.

Article 32

This Directive is addressed to the Member States.

Done at Brussels, 16 July 1985.

For the Council

The President

M. FISCHBACH

31. 7. 85 Official Journal of the European Communities No L 199/1

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 2137/85
of 25 July 1985
on the European Economic Interest Grouping (EEIG)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas a harmonious development of economic activities and a continuous and balanced expansion throughout the Community depend on the establishmend and smooth functioning of a common market offering conditions analogous to those of a national market; whereas to bring about this single market and to increase its unity a legal framework which facilitates the adaptation of their activities to the economic conditions of the Community should be created for natural persons, companies, firms and other legal bodies in particular; whereas to that end it is necessary that those natural persons, companies, firms and other legal bodies should be able to cooperate effectively across frontiers;

Whereas cooperation of this nature can encounter legal, fiscal or psychological difficulties; whereas the creation of an appropriate Community legal instrument in the form of a European Economic Interest Grouping would contribute to the achievement of the abovementioned objectives and therefore proves necessary;

Whereas the Treaty does not provide the necessary powers for the creation of such a legal instrument;

Whereas a grouping's ability to adapt to economic conditions must be guaranteed by the considerable freedom for its members in their contractual relations and the internal organization of the grouping;

Whereas a grouping differs from a firm or company principally in its purpose, which is only to facilitate or develop the economic activities of its members to enable them to improve their own results; whereas, by reason of that ancillary nature, a grouping's activities must be related to the economic activities of its members but not replace them so that, to that extent, for example, a grouping may not itself, with regard to third parties, practise a profession, the concept of economic activities being interpreted in the widest sense;

Whereas access to grouping form must be made as widely available as possible to natural persons, companies, firms and other legal bodies, in keeping with the aims of this Regulation; whereas this Regulation shall not, however, prejudice the application at national level of legal rules and/or ethical codes concerning the conditions for the pursuit of business and professional activities;

Whereas this Regulation does not itself confer on any person the right to participate in a grouping, even where the conditions it lays down are fulfilled;

Whereas the power provided by this Regulation to prohibit or restrict participation in grouping on grounds of public interest is without prejudice to the laws of Member States which govern the pursuit of activities and which may provide further prohibitions or restrictions or otherwise control or supervise participation in a grouping by any natural person, company, firm or other legal body or any class of them;

(1) OJ No C 14, 15. 2. 1974, p. 30 and OJ No C 103, 28. 4. 1978, p. 4.
(2) OJ No C 163, 11. 7. 1977, p. 17.
(3) OJ No C 108, 15. 5. 1975, p. 46.

Whereas, to enable a grouping to achieve its purpose, it should be endowed with legal capacity and provision should be made for it to be represented *vis-à-vis* third parties by an organ legally separate from its membership;

Whereas the protection of third parties requires widespread publicity; whereas the members of a grouping have unlimited joint and several liability for the grouping's debts and other liabilities, including those relating to tax or social security, without, however, that principle's affecting the freedom to exclude or restrict the liability of one or more of its members in respect of a particular debt or other liability by means of a specific contract between the grouping and a third party;

Whereas matters relating to the status or capacity of natural persons and to the capacity of legal persons are governed by national law;

Whereas the grounds for winding up which are peculiar to the grouping should be specific while referring to national law for its liquidation and the conclusion thereof;

Whereas groupings are subject to national laws relating to insolvency and cessation of payments; whereas such laws may provide other grounds for the winding up of groupings;

Whereas this Regulation provides that the profits or losses resulting from the activities of a grouping shall be taxable only in the hands of its members; whereas it is understood that otherwise national tax laws apply, particularly as regards the apportionment of profits, tax procedures and any obligations imposed by national tax law;

Whereas in matters not covered by this Regulation the laws of the Member States and Community law are applicable, for example with regard to:

— social and labour laws,

— competition law,

— intellectual property law;

Whereas the activities of groupings are subject to the provisions of Member States' laws on the pursuit and supervision of activities; whereas in the event of abuse or circumvention of the laws of a Member State by a grouping or its members that Member State may impose appropriate sanctions;

Whereas the Member States are free to apply or to adopt any laws, regulations or administrative measures which do not conflict with the scope or objectives of this Regulation;

Whereas this Regulation must enter into force immediately in its entirety; whereas the implementation of some provisions must nevertheless be deferred in order to allow the Member States first to set up the necessary machinery for the registration of groupings in their territories and the disclosure of certain matters relating to groupings; whereas, with effect from the date of implementation of this Regulation, groupings set up may operate without territorial restrictions,

HAS ADOPTED THIS REGULATION:

Article 1

1. European Economic Interest Groupings shall be formed upon the terms, in the manner and with the effects laid down in this Regulation.

Accordingly, parties intending to form a grouping must conclude a contract and have the registration provided for in Article 6 carried out.

2. A grouping so formed shall, from the date of its registration as provided for in Article 6, have the capacity, in its own name, to have rights and obligations of all kinds, to make contracts or accomplish other legal acts, and to sue and be sued.

3. The Member States shall determine whether or not groupings registered at their registries, pursuant to Article 6, have legal personality.

Article 2

1. Subject to the provisions of this Regulation, the law applicable, on the one hand, to the contract for the formation of a grouping, except as regards matters relating to the status or capacity of natural persons and to the capacity of legal persons and, on the other hand, to the internal organization of a grouping shall be the internal law of the State in which the official address is situated, as laid down in the contract for the formation of the grouping.

2. Where a State comprises several territorial units, each of which has its own rules of law applicable to the matters referred to in paragraph 1, each territorial unit shall be considered as a State for the purposes of identifying the law applicable under this Article.

Article 3

1. The purpose of a grouping shall be to facilitate or develop the economic activities of its members and to improve or increase the results of those activities; its purpose is not to make profits for itself.

Its activity shall be related to the economic activities of its members and must not be more than ancillary to those activities.

2. Consequently, a grouping may not:

(a) exercise, directly or indirectly, a power of management or supervision over its members' own activities or over the activities of another undertaking, in particular in the fields of personnel, finance and investment;

(b) directly or indirectly, on any basis whatsoever, hold shares of any kind in a member undertaking; the holding of shares in another undertaking shall be possible only in so far as it is necessary for the achievement of the grouping's objects and if it is done on its members' behalf;

(c) employ more than 500 persons;

(d) be used by a company to make a loan to a director of a company, or any person connected with him, when the making of such loans is restricted or controlled under the Member States' laws governing companies. Nor must a grouping be used for the transfer of any property between a company and a director, or any person connected with him, except to the extent allowed by the Member States' laws governing companies. For the purposes of this provision the making of a loan includes entering into any transaction or arrangement of similar effect, and property includes moveable and immoveable property;

(e) be a member of another European Economic Interest Grouping.

Article 4

1. Only the following may be members of a grouping:

(a) companies or firms within the meaning of the second paragraph of Article 58 of the Treaty and other legal bodies governed by public or private law, which have been formed in accordance with the law of a Member State and which have their registered or statutory office and central adminsitration in the Community; where, under the law of a Member State, a company, firm or other legal body is not obliged to have a registered or statutory office, it shall be sufficient for such a company, firm or other legal body to have its central administration in the Community;

(b) natural persons who carry on any industrial, commercial, craft or agricultural activity or who provide professional or other services in the Community.

2. A grouping must comprise at least:

(a) two companies, firms or other legal bodies, within the meaning of paragraph 1, which have their central administrations in different Member States, or

(b) two natural persons, within the meaning of paragraph 1, who carry on their principal activities in different Member States, or

(c) a company, firm or other legal body within the meaning of paragraph 1 and a natural person, of which the first has its central administration in one Member State and the second carries on his principal activity in another Member State.

3. A Member State may provide that groupings registered at its registries in accordance with Article 6 may have no more than 20 members. For this purpose, that Member State may provide that, in accordance with its laws, each member of a legal body formed under its laws, other than a registered company, shall be treated as a separate member of a grouping.

4. Any Member State may, on grounds of that State's public interest, prohibit or restrict participation in groupings by certain classes of natural persons, companies, firms, or other legal bodies.

Article 5

A contract for the formation of a grouping shall include at least:

(a) the name of the grouping preceded or followed either by the words 'European Economic Interest Grouping' or by the initials 'EEIG', unless those words or initials already form part of the name;

(b) the official address of the grouping;

(c) the objects for which the grouping is formed;

(d) the name, business name, legal form, permanent address or registered office, and the number and place of registration, if any, of each member of the grouping;

(e) the duration of the grouping, except where this is indefinite.

Article 6

A grouping shall be registered in the State in which it has its official address, at the registry designated pursuant to Article 39 (1).

Article 7

A contract for the formation of a grouping shall be filed at the registry referred to in Article 6.

The following documents and particulars must also be filed at that registry:

(a) any amendment to the contract for the formation of a grouping, including any change in the composition of a grouping;

(b) notice of the setting up or closure of any establishment of the grouping;

(c) any judicial decision establishing or declaring the nullity of a grouping, in accordance with Article 15;

(d) notice of the appointment of the manager or managers of a grouping, their names and any other identification particulars required by the law of the Member State in which the register is kept, notification that they may act alone or must act jointly, and the termination of any manager's appointment;

(e) notice of a member's assignment of his participation in a grouping or a proportion thereof, in accordance with Article 22 (1);

(f) any decision by members ordering or establishing the winding up of a grouping, in accordance with Article 31, or any judicial decision ordering such winding up, in accordance with Articles 31 or 32;

(g) notice of the appointment of the liquidator or liquidators of a grouping, as referred to in Article 35, their names and any other identification particulars required by the law of the Member State in which the register is kept, and the termination of any liquidator's appointment;

(h) notice of the conclusion of a grouping's liquidation, as referred to in Article 35 (2);

(i) any proposal to transfer the official address, as referred to in Article 14 (1);

(j) any clause exempting a new member from the payment of debts and other liabilities which originated prior to his admission, in accordance with Article 26 (2).

Article 8

The following must be published, as laid down in Article 39, in the gazette referred to in paragraph 1 of that Article:

(a) the particulars which must be included in the contract for the formation of a grouping, pursuant to Article 5, and any amendments thereto;

(b) the number, date and place of registration as well as notice of the termination of that registration;

(c) the documents and particulars referred to in Article 7 (b) to (j).

The particulars referred to in (a) and (b) must be published in full. The documents and particulars referred to in (c) may be published either in full or in extract form or by means of a reference to their filing at the registry, in accordance with the national legislation applicable.

Article 9

1. The documents and particulars which must be published pursuant to this Regulation may be relied on by a grouping as against third parties under the conditions laid down by the national law applicable pursuant to Article 3 (5) and (7) of Council Directive 68/151/EEC of 9 March 1968 on coordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 58 of the Treaty, with a view to making such safeguards equivalent throughout the Community (1).

2. If activities have been carried on on behalf of a grouping before its registration in accordance with Article 6 and if the grouping does not, after its registration, assume the obligations arising out of such activities, the natural persons, companies, firms or other legal bodies which carried on those activities shall bear unlimited joint and several liability for them.

Article 10

Any grouping establishment situated in a Member State other than that in which the official address is situated shall be registered in that State. For the purpose of such registration, a grouping shall file, at the appropriate registry in that Member State, copies of the documents which must be filed at the registry of the Member State in which the official address is situated, together, if necessary, with a translation which conforms with the practice of the registry where the establishment is registered.

Article 11

Notice that a grouping has been formed or that the liquidation of a grouping has been concluded stating the number, date and place of registration and the date, place and title of publication, shall be given in the *Official Journal of the European Communities* after it has been published in the gazette referred to in Article 39 (1).

Article 12

The official address referred to in the contract for the formation of a grouping must be situated in the Community.

The official address must be fixed either:

(a) where the grouping has its central administration, or

(b) where one of the members of the grouping has its central administration or, in the case of a natural person, his principal activity, provided that the grouping carries on an activity there.

(1) OJ No L 65, 14. 3. 1968, p. 8.

Article 13

The official address of a grouping may be transferred within the Community.

When such a transfer does not result in a change in the law applicable pursuant to Article 2, the decision to transfer shall be taken in accordance with the conditions laid down in the contract for the formation of the grouping.

Article 14

1. When the transfer of the official address results in a change in the law applicable pursuant to Article 2, a transfer proposal must be drawn up, filed and published in accordance with the conditions laid down in Articles 7 and 8.

No decision to transfer may be taken for two months after publication of the proposal. Any such decision must be taken by the members of the grouping unanimously. The transfer shall take effect on the date on which the grouping is registered, in accordance with Article 6, at the registry for the new official address. That registration may not be effected until evidence has been produced that the proposal to transfer the official address has been published.

2. The termination of a grouping's registration at the registry for its old official address may not be effected until evidence has been produced that the grouping has been registered at the registry for its new official address.

3. Upon publication of a grouping's new registration the new official address may be relied on as against third parties in accordance with the conditions referred to in Article 9 (1); however, as long as the termination of the grouping's registration at the registry for the old official address has not been published, third parties may continue to rely on the old official address unless the grouping proves that such third parties were aware of the new official address.

4. The laws of a Member State may provide that, as regards groupings registered under Article 6 in that Member State, the transfer of an official address which would result in a change of the law applicable shall not take effect if, within the two-month period referred to in paragraph 1, a competent authority in that Member State opposes it. Such opposition may be based only on grounds of public interest. Review by a judicial authority must be possible.

Article 15

1. Where the law applicable to a grouping by virtue of Article 2 provides for the nullity of that grouping, such nullity must be established or declared by judicial decision. However, the court to which the matter is referred must, where it is possible for the affairs of the grouping to be put in order, allow time to permit that to be done.

2. The nullity of a grouping shall entail its liquidation in accordance with the conditions laid down in Article 35.

3. A decision establishing or declaring the nullity of a grouping may be relied on as against third parties in accordance with the conditions laid down in Article 9 (1).

Such a decision shall not of itself affect the validity of liabilities, owed by or to a grouping, which originated before it could be relied on as against third parties in accordance with the conditions laid down in the previous subparagraph.

Article 16

1. The organs of a grouping shall be the members acting collectively and the manager or managers.

A contract for the formation of a grouping may provide for other organs; if it does it shall determine their powers.

2. The members of a grouping, acting as a body, may take any decision for the purpose of achieving the objects of the grouping.

Article 17

1. Each member shall have one vote. The contract for the formation of a grouping may, however, give more than one vote to certain members, provided that no one member holds a majority of the votes.

2. A unanimous decision by the members shall be required to:

(a) alter the objects of a grouping;

(b) alter the number of votes allotted to each member;

(c) alter the conditions for the taking of decisions;

(d) extend the duration of a grouping beyond any period fixed in the contract for the formation of the grouping;

(e) alter the contribution by every member or by some members to the grouping's financing;

(f) alter any other obligation of a member, unless otherwise provided by the contract for the formation of the grouping;

(g) make any alteration to the contract for the formation of the grouping not covered by this paragraph, unless otherwise provided by that contract.

3. Except where this Regulation provides that decisions must be taken unanimously, the contract for the formation of a grouping may prescribe the conditions

for a quorum and for a majority, in accordance with which the decisions, or some of them, shall be taken. Unless otherwise provided for by the contract, decisions shall be taken unanimously.

4. On the initiative of a manager or at the request of a member, the manager or managers must arrange for the members to be consulted so that the latter can take a decision.

Article 18

Each member shall be entitled to obtain information from the manager or managers concerning the grouping's business and to inspect the grouping's books and business records.

Article 19

1. A grouping shall be managed by one or more natural persons appointed in the contract for the formation of the grouping or by decision of the members.

No person may be a manager of a grouping if:

— by virtue of the law applicable to him, or

— by virtue of the internal law of the State in which the grouping has its official address, or

— following a judicial or administrative decision made or recognized in a Member State

he may not belong to the administrative or management body of a company, may not manage an undertaking or may not act as manager of a European Economic Interest Grouping.

2. A Member State may, in the case of groupings registered at their registries pursuant to Article 6, provide that legal persons may be managers on condition that such legal persons designate one or more natural persons, whose particulars shall be the subject of the filing provisions of Article 7 (d) to represent them.

If a Member State exercises this option, it must provide that the representative or representatives shall be liable as if they were themselves managers of the groupings concerned.

The restrictions imposed in paragraph 1 shall also apply to those representatives.

3. The contract for the formation of a grouping or, failing that, a unanimous decision by the members shall determine the conditions for the appointment and removal of the manager or managers and shall lay down their powers.

Article 20

1. Only the manager or, where there are two or more, each of the managers shall represent a grouping in respect of dealings with third parties.

Each of the managers shall bind the grouping as regards third parties when he acts on behalf of the grouping, even where his acts do not fall within the objects of the grouping, unless the grouping proves that the third party knew or could not, under the circumstances, have been unaware that the act fell outside the objects of the grouping; publication of the particulars referred to in Article 5 (c) shall not of itself be proof thereof.

No limitation on the powers of the manager or managers, whether deriving from the contract for the formation of the grouping or from a decision by the members, may be relied on as against thrid parties even if it is published.

2. The contract for the formation of the grouping may provide that the grouping shall be validly bound only by two or more managers acting jointly. Such a clause may be relied on as against third parties in accordance with the conditions referred to in Article 9 (1) only if it is published in accordance with Article 8.

Article 21

1. The profits resulting from a grouping's activities shall be deemed to be the profits of the members and shall be apportioned among them in the proportions laid down in the contract for the formation of the grouping or, in the absence of any such provision, in equal shares.

2. The members of a grouping shall contribute to the payment of the amount by which expenditure exceeds income in the proportions laid down in the contract for the formation of the grouping or, in the absence of any such provision, in equal shares.

Article 22

1. Any member of a grouping may assign his participation in the grouping, or a proportion thereof, either to another member or to a third party; the assignment shall not take effect without the unanimous authorization of the other members.

2. A member of a grouping may use his participation in the grouping as security only after the other members have given their unanimous authorization, unless otherwise laid down in the contract for the formation of the grouping. The holder of the security may not at any time become a member of the grouping by virtue of that security.

Article 23

No grouping may invite investment by the public.

Article 24

1. The members of a grouping shall have unlimited joint and several liability for its debts and other liabilities of whatever nature. National law shall determine the consequences of such liablity.

2. Creditors may not proceed against a member for payment in respect of debts and other liabilities, in accordance with the conditions laid down in paragraph 1, before the liquidation of a grouping is concluded, unless they have first requested the grouping to pay and payment has not been made within an appropriate period.

Article 25

Letters, order forms and similar documents must indicate legibly:

(a) the name of the grouping preceded or followed either by the words 'European Economic Interest Grouping' or by the initials 'EEIG', unless those words or initials already occur in the name;

(b) the location of the registry referred to in Article 6, in which the grouping is registered, together with the number of the grouping's entry at the registry;

(c) the grouping's official address;

(d) where applicable, that the managers must act jointly;

(e) where applicable, that the grouping is in liquidation, pursuant to Articles 15, 31, 32 or 36.

Every establishment of a grouping, when registered in accordance with Article 10, must give the above particulars, together with those relating to its own registration, on the documents referred to in the first paragraph of this Article uttered by it.

Article 26

1. A decision to admit new members shall be taken unanimously by the members of the grouping.

2. Every new member shall be liable, in accordance with the conditions laid down in Article 24, for the grouping's debts and other liabilities, including those arising out of the grouping's activities before his admission.

He may, however, be exempted by a clause in the contract for the formation of the grouping or in the instrument of admission from the payment of debts and other liabilities which originated before his admission. Such a clause may be relied on as against third parties, under the conditions referred to in Article 9 (1), only if it is published in accordance with Article 8.

Article 27

1. A member of a grouping may withdraw in accordance with the conditions laid down in the contract for the formation of a grouping or, in the absence of such conditions, with the unanimous agreement of the other members.

Any member of a grouping may, in addition, withdraw on just and proper grounds.

2. Any member of a grouping may be expelled for the reasons listed in the contract for the formation of the grouping and, in any case, if he seriously fails in his obligations or if he causes or threatens to cause serious disruption in the operation of the grouping.

Such expulsion may occur only by the decision of a court to which joint application has been made by a majority of the other members, unless otherwise provided by the contract for the formation of a grouping.

Article 28

1. A member of a grouping shall cease to belong to it on death or when he no longer complies with the conditions laid down in Article 4 (1).

In addition, a Member State may provide, for the purposes of its liquidation, winding up, insolvency or cessation of payments laws, that a member shall cease to be a member of any grouping at the moment determined by those laws.

2. In the event of the death of a natural person who is a member of a grouping, no person may become a member in his place except under the conditions laid down in the contract for the formation of the grouping or, failing that, with the unanimous agreement of the remaining members.

Article 29

As soon as a member ceases to belong to a grouping, the manager or managers must inform the other members of that fact; they must also take the steps required as listed in Articles 7 and 8. In addition, any person concerned may take those steps.

Article 30

Except where the contract for the formation of a grouping provides otherwise and without prejudice to the rights acquired by a person under Articles 22 (1) or 28 (2), a grouping shall continue to exist for the remaining members after a member has ceased to belong to it, in accordance with the conditions laid down in the contract for the formation of the grouping or determined by unanimous decision of the members in question.

Article 31

1. A grouping may be wound up by a decision of its members ordering its winding up. Such a decision shall be taken unanimously, unless otherwise laid down in the contract for the formation of the grouping.

2. A grouping must be wound up by a decision of its members :

(a) noting the expiry of the period fixed in the contract for the formation of the grouping or the existence of any other cause for winding up provided for in the contract, or

(b) noting the accomplishment of the grouping's purpose or the impossibility of pursuing it further.

Where, three months after one of the situation referred to in the first subparagraph has occurred, a members' decision establishing the winding up of the grouping has not been taken, any member may petition the court to order winding up.

3. A grouping must also be wound up by a decision of its members or of the remaining member when the conditions laid down in Article 4 (2) are no longer fulfilled.

4. After a grouping has been wound up by decision of its members, the manager or managers must take the steps required as listed in Articles 7 and 8. In addition, any person concerned may take those steps.

Article 32

1. On application by any person concerned or by a competent authority, in the event of the infringement of Articles 3, 12 or 31 (3), the court must order a grouping to be wound up, unless its affairs can be and are put in order before the court has delivered a substantive ruling.

2. On applications by a member, the court may order a grouping to be wound up on just and proper grounds.

3. A Member State may provide that the court may, on application by a competent authority, order the winding up of a grouping which has its official address in the State to which that authority belongs, wherever the grouping acts in contravention of that State's public interest, if the law of that State provides for such a possibility in respect of registered companies or other legal bodies subject to it.

Article 33

When a member ceases to belong to a grouping for any reason other than the assignment of his rights in accordance with the conditions laid down in Article 22 (1), the value of his rights and obligations shall be determined taking into account the assets and liabilities of the grouping as they stand when he ceases to belong to it.

The value of the rights and obligations of a departing member may not be fixed in advance.

Article 34

Without prejudice to Article 37 (1), any member who ceases to belong to a grouping shall remain answerable, in accordance with the conditions laid down in Article 24, for the debts and other liabilities arising out of the grouping's activities before he ceased to be a member.

Article 35

1. The winding up of a grouping shall entail its liquidation.

2. The liquidation of a grouping and the conclusion of its liquidation shall be governed by national law.

3. A grouping shall retain its capacity, within the meaning of Article 1 (2), until its liquidation is concluded.

4. The liquidator or liquidators shall take the steps required as listed in Articles 7 and 8.

Article 36

Groupings shall be subject to national laws governing insolvency and cessation of payments. The commencement of proceedings against a grouping on grounds of its insolvency or cessation of payments shall not by itself cause the commencement of such proceedings against its members.

Article 37

1. A period of limitation of five years after the publication, pursuant to Article 8, of notice of a member's ceasing to belong to a grouping shall be substituted for any longer period which may be laid down by the relevant national law for actions against that member in connection with debts and other liabilities arising out of the grouping's activities before he ceased to be a member.

2. A period of limitation of five years after the publication, pursuant to Article 8, of notice of the conclusion of the liquidation of a grouping shall be substituted for any longer period which may be laid down by the relevant national law for actions against a member of the grouping in connection with debts and other liabilities arising out of the grouping's activities.

Article 38

Where a grouping carries on any activity in a Member State in contravention of that State's public interest, a competent authority of that State may prohibit that activity. Review of that competent authority's decision by a judicial authority shall be possible.

Article 39

1. The Member States shall designate the registry or registries responsible for effecting the registration referred to in Articles 6 and 10 and shall lay down the rules governing registration. They shall prescribe the conditions under which the documents referred to in Articles 7 and 10 shall be filed. They shall ensure that the documents and particulars referred to in Article 8 are published in the appropriate official gazette of the Member State in which the grouping has its official address, and may prescribe the manner of publication of the documents and particulars referred to in Article 8 (c).

The Member States shall also ensure that anyone may, at the appropriate registry pursuant to Article 6 or, where appropriate, Article 10, inspect the documents referred to in Article 7 and obtain, even by post, full or partial copies thereof.

The Member States may provide for the payment of fees in connection with the operations referred to in the preceding subparagraphs; those fees may not, however, exceed the administrative cost thereof.

2. The Member States shall ensure that the information to be published in the *Official Journal of the European Communities* pursuant to Article 11 is forwarded to the Office for Official Publications of the European Communities within one month of its publication in the official gazette referred to in paragraph 1.

3. The Member States shall provide for appropriate penalties in the event of failure to comply with the provisions of Articles 7, 8 and 10 on disclosure and in the event of failure to comply with Article 25.

Article 40

The profits or losses resulting from the activities of a grouping shall be taxable only in the hands of its members.

Article 41

1. The Member States shall take the measures requried by virtue of Article 39 before 1 July 1989. They shall immediately communicate them to the Commission.

2. For information purposes, the Member States shall inform the Commission of the classes of natural persons, companies, firms and other legal bodies which they prohibit from participating in groupings pursuant to Article 4 (4). The Commission shall inform the other Member States.

Article 42

1. Upon the adoption of this Regulation, a Contact Committee shall be set up under the auspices of the Commission. Its function shall be:

(a) to facilitate, without prejudice to Articles 169 and 170 of the Treaty, application of this Regulation through regular consultation dealing in particular with practical problems arising in connection with its application;

(b) to advise the Commission, if necessary, on additions or amendments to this Regulation.

2. The Contact Committee shall be composed of representatives of the Member States and representatives of the Commission. The chairman shall be a representative of the Commission. The Commission shall provide the secretariat.

3. The Contact Committee shall be convened by its chairman either on his own initiative or at the request of one of its members.

Article 43

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities.*

It shall apply from 1 July 1989, with the exception of Articles 39, 41 and 42 which shall apply as from the entry into force of the Regulation.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 25 July 1985.

For the Council

The President

J. POOS

Application of Article 27 of the Sixth Council Directive of 17 May 1977 on value added tax (1)

(Authorization of a derogation requested by the United Kingdom to enable certain types of tax evasion to be prevented)

(85/369/EEC)

In a letter dated 15 March 1985 the United Kingdom Government notified the Commission, pursuant to the above provisions, of its intention to introduce, for a period of two years, a measure derogating from the Sixth Directive in order to prevent tax evasion by introducing a system for charging VAT in cases where the marketing structure of certain firms is based on the sale of their products to unregistered resellers.

The Commission informed the other Member States by letter on 12 April 1985 of the United Kingdom Government's intention.

Under the provisions of Article 27 (4) of the Sixth Directive the Council's decision shall be deemed to have been adopted if, within two months of the other Member States being informed as laid down in the previous paragraph, neither the Commission nor any Member State has requested that the matter be raised by the Council.

As neither the Commission nor any Member State has made such a request within the period specified, the Council's decision is deemed to have been adopted on 13 June 1985.

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(1) OJ No L 145, 13. 6. 1977, p. 1.

COMMISSION

COMMISSION DIRECTIVE

of 14 October 1985

amending Directive 77/794/EEC laying down detailed rules for implementing certain provisions of Directive 76/308/EEC on mutual assistance for the recovery of claims resulting from operations forming part of the system of financing the European Agricultural Guidance and Guarantee Fund, and of agricultural levies and customs duties

(85/479/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 76/308/EEC of 15 March 1976 on mutual assistance for the recovery of claims resulting from operations forming part of the system of financing the European Agricultural Guidance and Guarantee Fund, and of agricultural levies and customs duties, and in respect of value added tax (1), as last amended by Directive 79/1071/EEC (2), and in particular Article 22 (1) thereof,

Whereas detailed rules for implementing certain provisions of Directive 76/308/EEC were laid down by Commission Directive 77/794/EEC (3); whereas the title of Directive 76/308/EEC was amended by Directive 79/1071/EEC; whereas the title of Directive 77/794/EEC must be amended accordingly;

Whereas Article 20 (2) of Directive 77/794/EEC provides that no request for assistance may be made if the amount of the relevant claim or claims is less than 750 ECU;

Whereas Article 12 (2) of Council Regulation (EEC) No 3/84 of 19 December 1983 introducing arrangements for movement within the Community of goods sent from one Member State for temporary use in one or more other Member States (4) provides for mutual assistance between Member States for the recovery of charges due as a result of an irregularity committed in one of them; whereas, however, it is stipulated that the Member State which is recovering the debt may alternatively apply the provisions of Directive 76/308/EEC;

Whereas Article 22 (5) of Commission Regulation (EEC) No 2364/84 of 31 July 1984 laying down detailed implementing provisions for the arrangements for movement within the Community of goods sent from one Member State for temporary use in one or more other Member States (5), provides that Article 12 (2) of Regulation (EEC) No 3/84 shall not apply where the amount to be recovered is less than 200 ECU;

Whereas, in order to allow, in accordance with Article 12 (2) of Regulation (EEC) No 3/84, the provisions adopted in accordance with Directive 76/308/EEC to be applied in cases where the amount to be recovered is 200 ECU or more, it is necessary to derogate from the principle that no request or assistance may be made under that Directive if the amount of the relevant claim or claims is less than 750 ECU;

Whereas Annex I to Directive 77/794/EEC, which contains the form to be used for requesting the information mentioned in Article 4 of Directive 76/308/EEC contains a material error which requires correcting;

(1) OJ No L 73, 19. 3. 1976, p. 18.
(2) OJ No L 331, 27. 12. 1979, p. 10.
(3) OJ No L 333, 24. 12. 1977, p. 11.
(4) OJ No L 2, 4. 1. 1984, p. 1.
(5) OJ No L 222, 20. 8. 1984, p. 1.

Whereas the measures provided for in this Directive are in accordance with the opinion of the Committee on Recovery,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 77/794/EEC is hereby amended as follows:

1. The title is replaced by the following:

'Commission Directive of 4 November 1977 laying down detailed rules for implementing certain provisions of Council Directive 76/308/EEC on mutual assistance for the recovery of claims resulting from operations forming part of the system of financing the European Agricultural Guidance and Guarantee Fund, and of agricultural levies and customs duties, and in respect of value added tax'.

2. Article 20 (2) is replaced by the following:

'2. No request for assistance may be made if the amount of the relevant claim or claims is less than 750 ECU. This amount shall be reduced to 200 ECU if the request relates to the recovery of a claim payable as a result of an irregularity committed in the course of or in connection with an operation carried out under arrangements for movement of goods within the Community introduced by Council Regulation (EEC) No 3/84.'

3. Annex I is replaced by the Annex to this Directive.

Article 2

1. Member States shall take the measures necessary to comply with this Directive not later than 1 January 1986. They shall forthwith inform the Commission thereof.

2. Member States shall communicate to the Commission the measures which it takes in the field governed by this Directive. The Commission shall inform the other Member States thereof.

Article 3

This Directive is addressed to the Member States.

Done at Brussels, 14 October 1985.

For the Commission

COCKFIELD

Vice-President

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (ECSC EEC, EURATOM) No 3735/85

of 20 December 1985

exetending the term of validity of Regulation (EEC, EURATOM, ECSC) No 2892/77 implementing, in respect of own resources accruing from value added tax, the decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communites' own resources

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (1), and in particular Article 6 (2) thereof,

Having regard to the proposal from the Commission (2),

Having regard to the opinion of the European Parliament (3),

Having regard to the opinion of the Court of Auditors (4),

Whereas under Article 14 of Regulation (EEC, Euratom, ECSC) No 2892/77 (5), as last amended by Regulation (EEC, Euratom, ECSC) No 3625/83 (6), that Regulation shall apply from 1 January 1978 for a transitional period expiring on 31 December 1985;

Whereas Regualtion (EEC, Euratom, ECSC) No 3625/83 was first applied to the preparation of the statement indicating the total definitive amount of the VAT resources base for 1983; whereas, under Article 10 (1) of Regulation (EEC, Euratom, ECSC) No 2892/77, this statement was not sent to the Commission by the Member States until 1 July 1984; whereas it is necessary to be able to take as a basis the experience of several financial years before a definitive uniform system can be produced for collecting own resources from value added tax and to examine all the methods likely to allow for the most accurate levy of such own resources;

Whereas the harmanization of value added tax, as provided for by the sixth Council Directive (77/388/EEC) of 17 May 1977, with regard to the harmonization of the laws of the Member States relating to turnover taxes — common system of value added tax; uniform basis of assessment (7) — has still not been completely harmonized; whereas, in particular, Annexes E and F still remain;

Whereas, in order to continue collection of own resources and prepare the definitive system, this transitional period should be extended to 31 December 1988 and the provisions of Regulation (EEC, Euratom, ECSC) No 2892/77 should remain in force for the time being,

HAS ADOPTED THIS REGULATION:

Article 1

Article 14 of Regulation (EEC, Euratom, ECSC) No 2892/77 shall be replaced by the following:

'*Article 14*

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Communities.*

It shall apply with effect from 1 January 1978 for a transitional period expiring on 31 December 1988.

The Commission will present, before 31 December 1987, a report on the application of this Regulation, at the same time as it presents proposals in respect of a uniform method for determinig the assessment basis, taking into account all possible disparities in administrative burdens incurred by taxable persons, or by the public administation.

The Coucil, acting unanimously on a proposal from the Commission, shall adopt, before 30 June 1988, the provosions relating to the definitive uniform system for collecting VAT resources and the procedures for the implementation of this system.'

Article 2

This Regulation shall enter into force on 1 January 1986.

(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No C 125, 22. 5. 1985, p. 16.
(3) Opinion delivered on 15 November 1985 (not yet published in the Official Journal).
(4) OJ No C 261, 12. 10. 1985, p. 3.
(5) OJ No L 336, 27. 12. 1977, p. 8.
(6) OJ No L 360, 23. 12. 1983, p. 1.
(7) OJ No L 145, 13. 6. 1977, p. 1.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 20 December 1985.

For the Council

The President

R. KRIEPS

COMMISSION REGULATION (EEC) No 3813/85

of 23 December 1985

amending the provisions of Article 12 and 13 of Annex I of Regulation (EEC) No 1751/84 laying down certain provisions for the application of Council Regulation (EEC) No 3599/82 on temporary admission arrangements

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3599/82 of 21 December 1982 on temporary arrangements (1), as amended by Regulation (EEC) No 1620/85 (2), and in particular Article 33 thereof,

Whereas Commission Regulation (EEC) No 1751/84 of 13 June 1984 laying down certain provisions for the application of Council Regulation (EEC) No 3599/82 on temporary importation arrangements (3), as amended by Regulation (EEC) No 1637/85 (4) specifies in Article 12 (2) thereof special conditions where an ATA Carnet is used; whereas it appears desirable to widen the use of this carnet within the Community and to set out in a list, the most important types of goods likely to be temporarily imported under ATA carnets;

Whereas the said Regulation provides in Article 13 thereof the cases in which the obligation to present a declaration when placing goods under the temporary importation arrangements may be suspended and also, in Annex I, the cases in which the competent authorities shall not require the provisions of a security;

Whereas it is necessary to establish certain facilities to be granted for the temporary importation of radio and television production and broadcasting equipment and vehicles specially adapted for radio and television broadcasting;

Whereas the measures provided for under this Regulation are in accordance with the opinion of the Committee for Customs Processing Arrangements,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1751/84 shall be amended as follws:

1. The following text shall be added to Article 12 as subparagraph 3:

'3. The goods which may be imported temporarily on presentation and acceptance of the ATA Carnet are listed in Annex XI. The competent authorities of the Member State where the placing of the goods under the arrangements is requested may allow the use of ATA Carnets for goods other than those listed in Annex XI.'

2. The following text shall be added to Article 13, paragraph 1 as a third indent:

'— radio and television production and broadcasting equipment and vehicles specially adapted for use for the above purpose and their equipment, imported by public of private bodies, established outside the customs territory of the Community, and approved by the customs authorities of the Member State of importation for the purpose of the admission of such equipment and vehicles under the temporary importation arrangements.'

3. In Annex I:

(a) point 1 is replaced by the following:

'1. Temporary importation of goods other than those specified in point 7 without written declaration carried out in accordance with the provisions of Articles 12 and 13, except at the request of the competent authorities.'

(b) the following point No 7 is added:

'7. Temporary importation of radio and television production and broadcasting equipment and vehicles specially adapted for use for the above purpose, imported by public or private bodies established outside the customs territory of the Community, approved by the appropriate authorities of the importing Member State for the purposes of the admission of such equipment and vehicles under the temporary importation arrangements.'

4. Following Annex X shall be inserted Annex XI.

Article 2

This Regulation shall apply from 1 July 1986.

(1) OJ No L 376, 31. 12. 1982, p. 1.
(2) OJ No L 155, 14. 6. 1985, p. 54.
(3) OJ No L 171, 29. 6. 1984, p. 1.
(4) OJ No L 158, 18. 6. 1985, p. 10.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 23 December 1986.

For the Commission

COCKFIELD

Vice-President

ANNEX

'ANNEX XI

List of goods which may be temporarily admitted on presentation and acceptance of an ATA Carnet

Regulation (EEC) No 3599/82	*Goods*
Articles 7 and 8	Professional equipment
Article 9	Goods for display or use at an exhibition, fair, symposium or similar event
Article 10	Teaching aids
Article 11	Scientific equipment
Article 15 (e)	Samples which are representative of the particular category of goods and which are intended for demonstration purposes with a view to obtaining orders for similar goods
Article 18 (a)	Positive cinematograph films, printed and developed, intended for projection prior to commercial use'

No L 372/30 Official Journal of the European Communities 31. 12. 85

COUNCIL DIRECTIVE

of 20 December 1985

amending Directive 78/1035/EEC on the exemption from taxes of imports of small consignments of goods of a non-commercial character from third countries

(85/576/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 99,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas no adjustment has been made to the tax relief provided for in Directive 78/1035/EEC (4) as amended by Directive 81/933/EEC (5), as regards the importation of small consignments of goods of a non-commercial character from third countries since the adoption of Directive 81/933/EEC, resulting in a fall in the real value of the relief owing to the rise in consumer prices; whereas that situation should be remedied;

Whereas tafia, saké and other similar beverages can be treated as beverages of an alcoholic strength of 22 % vol. or less for which there is currently a tax-free limit; whereas the list of beverages covered by this limit should therefore be extended;

Whereas it should be specifically mentioned that the limit on the quantity of alcoholic beverages which can be exempted applies *a fortiori* to pure alcohol,

HAS ADOPTED THIS DIRECTIVE:

Article 1

In the third indent of Article 1 (2) (a) of Directive 78/1035/EEC, '35 ECU' is hereby replaced by '45 ECU'.

Article 2

Article 2 (b) first and second indents of Directive 78/1035/EEC shall be replaced by the following:

'(b) alcohol and alcoholic beverages:

— distilled beverages and spirits of an alcoholic strength exceeding 22 % vol.; undenatured ethyl alcohol of 80 % vol. and over: one standard bottle (up to 1 litre), or

— distilled beverages and spirits, and aperitifs with a wine or alcohol base, tafia, saké or similar beverages of an alcoholic strength of 22 % vol. or less; sparkling wines, fortified wines: one standard bottle (up to 1 litre),'.

Article 3

1. Member States shall take the measures necessary to comply with this Directive as from 1 July 1986.

2. Member States shall inform the Commission of the measures they take for the application of this Directive.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 20 December 1985.

For the Council

The President

R. KRIEPS

(1) OJ No C 167, 6. 7. 1985, p. 5.
(2) OJ No C 345, 31. 12. 1985.
(3) OJ No C 303, 25. 11. 1985, p. 5.
(4) OJ No L 366, 28. 12. 1978, p. 34.
(5) OJ No L 338, 21. 11. 1981, p. 24.