

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(81) 729 final.

Brussels, 30 November 1981

Proposal for a  
Council Decision  
establishing a prior information and consultation  
procedure for tax matters

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(submitted to the Council by the Commission)

COM(81) 729 final.

PRIOR INFORMATION AND CONSULTATION PROCEDURE  
FOR TAX MATTERS

(Proposal for a Council Decision)

Explanatory memorandum

In its Report on the scope for convergence of tax systems in the Community (1), adopted on 26 March 1980, the Commission announced its intention of reviving the idea, which it had put forward in 1975, of some form of prior information and consultation procedure on the main provisions which the national authorities plan to adopt in the fields covered by tax harmonization.

The Commission has done so because it has found that the Community interest has not always been properly taken into account when national tax policies are being framed. This failure to take account of the Community interest is an obstacle to tax harmonization ; it could indeed make it ultimately impossible to achieve harmonization if Member States adopted unilateral measures which accentuated present divergences between the national tax systems. Such divergences are very considerable and do not in general show any signs of diminishing. The point is made in the section of the Commission's report to the Council of 26 March 1980 which deals with the analysis of tax structures in the Member States and of changes in structure during the years 1973 to 1977 :

"Whether we consider the structure of total receipts, the overall tax burden or the relative weight of particular taxes, we see that the differences between the extremes are still large and sometimes even very large. In some cases, the difference in 1977 narrowed compared with that in 1973, although so slightly as to make the change insignificant. In other cases, the difference remains virtually constant. In the case of corporation taxes, it has actually increased."

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(1) Bulletin Supplement 1/80

In view of the importance of tax harmonization for the Community, the Commission finds this situation worrying and considers that it must be remedied. So as to facilitate progress towards the vital aim of an eventual convergence of tax systems, it believes that there is a need for a proper prior information and consultation procedure. Such a procedure will enable the Commission and the other Member States, where appropriate and after consultation, to make known their views regarding such new measures contemplated by a Member State as may seriously interfere with the achievement of tax harmonization or of a common policy.

The aim of this proposal for a Council Decision is to set up such a mechanism. The proposed arrangements are extremely simple, impose only a minimum amount of restraints on Member States and should therefore not prove troublesome. Under the procedure, the authorities will, where necessary, be able to keep plans secret until made public and they will not, in emergencies, have to wait until the procedure has been completed before implementing the measures planned and may even do so immediately. Clearly this procedure is not intended to supplant the one applicable to State aids under Article 93(3) of the Treaty or the one set up for transport matters by the Council decision of 21 March 1962 (1) : it is an addition to those procedures. Thus, in the extreme case, a given tax measure could fall to be dealt with under all three procedures.

A prior consultation procedure of this kind will enable all the bodies involved in the national decision-making process to take into account the Community dimension of tax problems.

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(1) OJ n° 720/62, 3.4.62

Proposal for a Council Decision establishing a  
prior information and consultation procedure  
for tax matters

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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,

Having regard to the Opinion of the European Parliament,

Whereas the major divergences between the tax systems of the Member States  
make it difficult to achieve tax harmonization ; whereas any increase in  
these divergences could jeopardize such harmonization, which is, however,  
essential to achieving the objectives of the Treaty ;

Whereas a prior information and consultation procedure for tax matters may  
not only make it possible to prevent situations where Member States unila-  
terally take measures whose effect would be to increase such divergences, but  
may also promote the convergence of tax systems ; whereas such a procedure  
should therefore be established ;

Whereas the procedure must be confined to measures which may have an appreciable  
influence on the establishment and functioning of the common market or on the  
implementation of a common policy ;

Whereas the implementation of proposed measures should not be held up where the  
Member State in question considers that they are urgent,

Whereas the Treaty does not provide the specific powers of action required  
for this purpose,

HAS ADOPTED THIS DECISION

Article 1

Without prejudice to the provisions of Article 93(3) of the Treaty  
or to those of the Council Decision dated 21 March 1962 instituting a proce-  
dure for prior examination and consultation in respect of certain laws, regu-  
lations and administrative provisions concerning transport proposed in Member

States,<sup>1)</sup> where a Member State intends to adopt measures concerned with taxation which may have an appreciable influence on the establishment or functioning of the common market or on the implementation of a common policy or common action, that Member State shall, in good time and at the latest when they are made public, notify the Commission and the other Member States of the corresponding proposals.

#### Article 2

1. The Commission may address to the Member State an opinion or a recommendation within two months of the notification referred to in Article 1 being received ; it shall , at the same time, inform the other Member States thereof.
2. Each Member State may make known to the Commission its views on the measures in question ; it shall, at the same time, notify them to the other Member States.
3. The Commission shall enter into consultations with all Member States on the measures in question whenever a Member State requests such consultations or the Commission itself deems them appropriate.

#### Article 3

Except where it considers that they are urgent, the Member State in question shall not implement the measures planned until the time limit laid down in Article 2 (1) has expired.

#### Article 4

The provisions of this Decision shall not apply to measures which Member States intend to take in order to comply with the provisions of Community Directives.

#### Article 5

This Decision is addressed to the Member States.

Done at

For the Council  
The President

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1) OJ of 3.4.1962, p. 720/62.