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**INTERNAL MARKET**

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**CURRENT STATUS 1 JULY 1994**

**THE ELIMINATION OF  
FRONTIER CONTROLS**

**Control of goods  
Control of individuals  
Indirect taxation**

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**EUROPEAN COMMISSION**

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**T**his booklet is one of a series of six publications on the internal market.

The complete series of booklets covers

**A common market for services**

**The elimination of frontier controls**

**Conditions for business cooperation**

**Public procurement**

**Internal market for energy**

**A new Community standards policy**

**Veterinary and plant health controls**

**Community social policy**

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# THE ELIMINATION OF FRONTIER CONTROLS

## How to use this booklet

### This series of booklets sets out:

- (i) to inform the interested European public about the steps which are being taken to bring about the single market;
- (ii) to summarize the approach which is being taken in individual business sectors;
- (iii) to provide an initial guide to the content and current status of each proposal which the Commission has drafted with a view to completing the internal market.

### This booklet contains:

- (i) a brief description of how the Community makes laws;
- (ii) a general introduction to the issues and problems involved in eliminating frontier controls;
- (iii) specific introductions to the approach being taken;
- (iv) a brief summary of each measure which has been adopted or proposed with a view to establishing an internal market without frontier controls. Where a measure has been proposed but not yet adopted, the summary also gives details of the European Parliament's opinion and of the current status of the proposal. Where the measure has been adopted, the summary gives the deadline for implementing the legislation in the Member States, together with details of any follow-up work and of the implementing measures taken by the Commission.

### The reader should:

- (i) ensure he is familiar with how the Community makes laws and recommendations; if this is not the case, he should turn to page iii;
- (ii) read the general introduction to services for an overview of the issues (page 1);
- (iii) select from the contents (page ix) the section(s) which cover the sector(s) of interest.

The summaries provide references to the appropriate copies of the *Official Journal of the European Communities* for those readers wishing to examine measures in more detail. Copies of the Official Journal can be obtained from the sales offices listed inside the back cover.

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**Note to the reader**

This publication provides a snapshot, as at 1 July 1994, of a situation which is evolving all the time. It was designed as a documentary tool and does not bind the Commission in any way.

## EUROPEAN COMMUNITY LEGISLATIVE PROCEDURES

### SUMMARY

To gain a better understanding of the information contained in the summaries, it is worthwhile learning about the Community's legislative procedures. Each summary refers to a specific measure designed to facilitate the creation of the single market. In brief:

- (i) the Commission, which enjoys decision-making and implementing powers, has a right of initiative: it draws up proposals, which it submits to the Council;
- (ii) the Council consists of members representing each Member State at ministerial level. Jointly with Parliament and the Commission, the Council adopts Community instruments on the basis of these proposals;
- (iii) the European Parliament (elected by the citizens of the Community) examines these proposals and participates, within the limits of its powers, in the adoption of Community acts;
- (iv) the Economic and Social Committee (consisting of representatives of employers, trade unions and other interest groups) must be consulted on some of these proposals;
- (v) the Committee of the Regions, consisting of representatives of local and regional authorities, also has a consultative role in some fields.

#### 1. LAWS AND OTHER MEASURES

##### Regulations

A regulation is a law which is binding and directly applicable in all Member States without any implementing national legislation. Both the Council and the Commission can adopt regulations.

##### Directives

A directive is an EC law binding on the Member States as to the result to be achieved, but the choice of method is their own. In practice, national implementing legislation in the form deemed appropriate in each Member State is necessary in most cases. This is an important point as businesses affected by a directive have to take account of the national implementing legislation as well as the directive.

##### Decisions

A decision is binding entirely on those to whom it is addressed. No national implementing legislation is required. The decisions summarized in this booklet are Council decisions although in certain cases the Commission has the power to adopt Commission decisions.

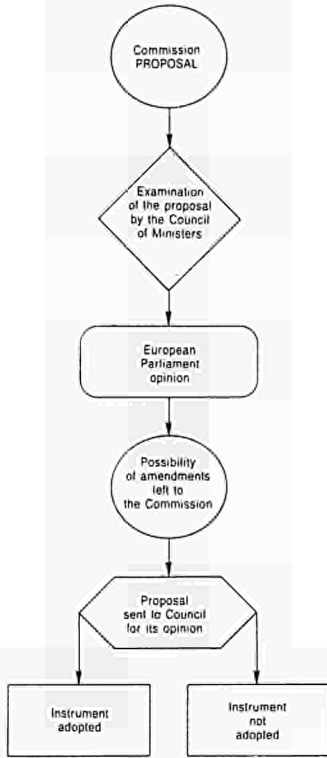
##### Recommendations

A recommendation has no binding effect (it is not a law). Recommendations can be adopted by both the Council and the Commission.

The majority of the measures included in this booklet are Council directives.

## EC legislation from start to finish (directives and regulations)

### The consultation procedure

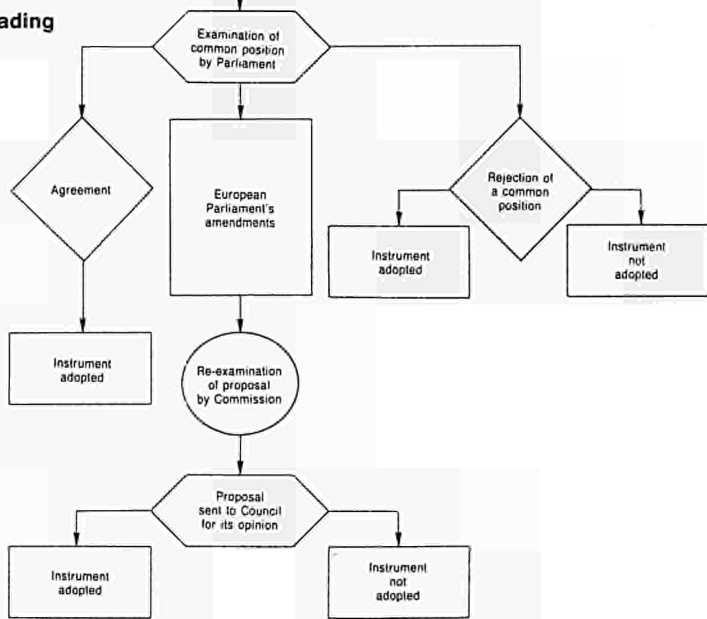


### The cooperation procedure

#### First reading



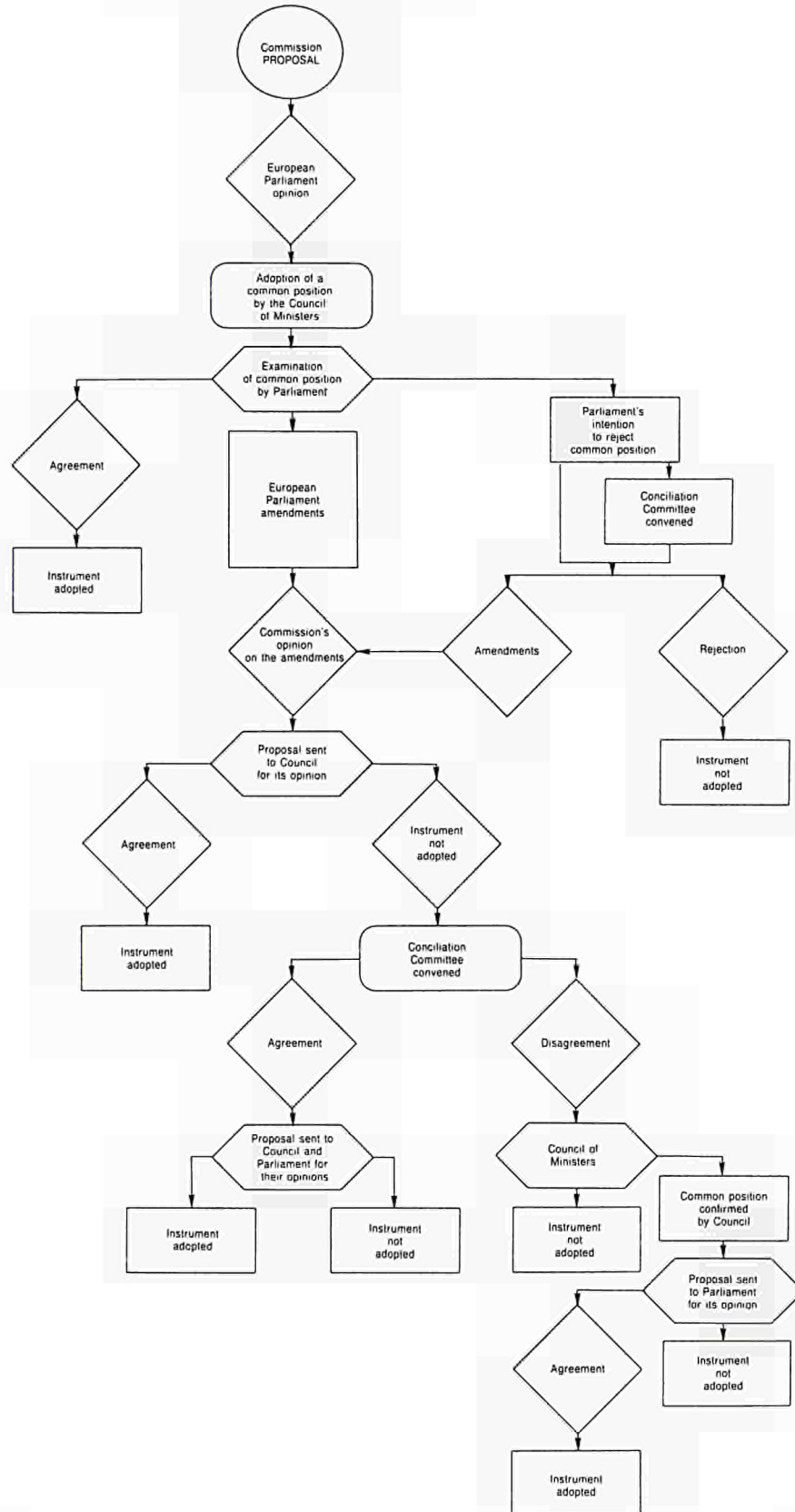
#### Second reading



### Co-decision procedure

First reading

Second reading



## 2. LEGISLATIVE PROCEDURES

The best way of illustrating the Community decision-making procedures is to describe the route leading to the adoption of a legislative instrument. The following text should be read in conjunction with the charts set out above.

Since the Treaty on European Union entered into force on 1 November 1993, four different procedures have existed for the adoption of a legislative instrument: the consultation procedure, the assent procedure, the cooperation procedure and the co-decision procedure.

The procedure to be followed is determined by the article of the EC Treaty on which the proposal is based and each Council instrument starts from a proposal addressed by the Commission to the Council.

Under the consultation procedure, the Council seeks the opinion of the European Parliament and, in most cases, that of the Economic and Social Committee. Once these opinions have been delivered, the Commission may amend its proposal, if it so wishes. The proposal is then examined by the Council, which may adopt it as it stands or after amending it. It can happen that the Council does not reach agreement, in which case the proposal remains 'on the table'.

Parliamentary approval is obligatory in all cases subject to the assent procedure — as regards the exercise of Community citizens' rights of free movement and residence. The instrument is either adopted or rejected. Where it is rejected, the Council has to re-examine the proposal until such time as Parliament gives its assent. Although unable to amend the text submitted to it, Parliament thus enjoys to all intents and purposes a right of veto.

The cooperation procedure allows Parliament to amend a proposal submitted to it not on one, but on two occasions. After consulting Parliament and the Economic and Social Committee and, where appropriate, the Committee of the Regions, the Council has to adopt a common position. This is then transmitted to Parliament, which has three months in which to accept it, reject it or propose amendments in second reading. The Commission re-examines its proposal in the light of Parliament's amendments and sends it to the Council, which has to take a final decision within three months. In the absence of a decision, the proposal will lapse.

The co-decision procedure is a three-phase procedure enabling Parliament to veto the proposals placed before it. It follows the same course as the cooperation procedure up to the second parliamentary reading. It differs from the latter procedure only in so far as it allows for the convening of a committee to elucidate certain aspects of the Council's position in cases where Parliament intends to reject the common position. This committee, which is known as the Conciliation Committee, consists of representatives of the Council and Parliament and involves the Commission in its work. Where Parliament has proposed amendments to the common position, the Commission issues its opinion on those amendments and the text is forwarded to the Council. Within three months (third phase), the Council either adopts the act or convenes the Conciliation Committee, which then has six weeks in which to negotiate a compromise between Parliament and the Council. If an agreement is found, Parliament and the Council can only approve or reject the text. Where there is disagreement, there are two possibilities:

- (i) either the proposal lapses;
- (ii) or Parliament adopts or rejects the initial common position as reaffirmed, and possibly amended, by the Council.

Prior to the entry into force of the Treaty on European Union, most matters now subject to this procedure were covered by the cooperation procedure: this was the case, for example, with the harmonization of legislation relating to the internal market, the free movement of workers and the mutual recognition of qualifications. The following table provides a full list of the areas falling within the scope of the co-decision procedure.



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## Scope of co-decision procedure

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- Free movement of workers
- Freedom of establishment
- Mutual recognition of qualifications
- Services
- Harmonization of legislation on the internal market
- Education (incentive measures)
- Culture (incentive measures)
- Health (incentive measures)
- Consumer protection
- Trans-European networks (guidelines)
- Research (multiannual framework programme)
- Environment (action programme of a general nature)

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The voting procedure within the Council (qualified majority or unanimous vote) depends on the article of the Treaty on which the proposal is based. There are some instances where Council unanimity is automatically required, namely:

- (i) where amendments are made to the proposal on the Council's own initiative except in the case of the co-decision procedure Conciliation Committee;
- (ii) where amendments are being made which have been proposed by Parliament but not endorsed by the Commission;
- (iii) where a measure is being accepted after Parliament has rejected the Council's common position adopted under the cooperation procedure.

Only a limited number of decisions are summarized in this brochure. The European Parliament delivers an opinion on some of them, as do the Economic and Social Committee and the Committee of the Regions.

The same is true of recommendations, the list of which is also limited. In some cases, the European Parliament delivers an opinion before they are adopted and the Economic and Social Committee and the Committee of the Regions are consulted.

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### 3. PUBLICATION OF TEXTS

At certain stages in the Community decision-making procedure, texts are published in the *Official Journal of the European Communities*. There is an 'L' series which contains legislation and a 'C' series which contains other information, such as communications issued by the Commission.

This booklet contains summaries of both adopted legislation and proposals for legislation. In the case of adopted legislation, the summary gives the reference to the Official Journal 'L' series in which the text has been published. Readers interested in the legislative history of a measure will find in the text the Official Journal 'C' series references for the corresponding Commission proposal(s) and the opinions of the European Parliament and the Economic and Social Committee.

In the case of proposals for legislation, the summary gives the Official Journal 'C' series references for the Commission proposal(s) and the opinions of the European Parliament and the Economic and Social Committee, if published by 30 June 1994.

# THE ELIMINATION OF FRONTIER CONTROLS

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## INTRODUCTION

### WHY THE ELIMINATION OF FRONTIER CONTROLS?

#### 1957 — Treaty of Rome

This was intended to create a single market throughout the European Community, based on the principle of the free movement of goods, persons, services and capital.

Although a customs union was very quickly established and significant progress made with regard to the free movement of goods and persons, a number of administrative barriers to the establishment of a genuine single market continued to exist, although some measures were taken to simplify border formalities.

#### 1985 — White Paper

Customs posts at the frontiers between Member States continued to exist because they were a convenient point to exercise the tax, commercial, economic, health, statistical and police controls and formalities still required. However, the cost to industry alone of complying with frontier-crossing formalities was variously estimated at between 5 and 7% of the volume of intra-Community trade or ECU 12 billion.

The Commission's White Paper 'Completing the internal market' set the ambitious target of creating the requisite conditions for the abolition of all existing controls and formalities.

#### 1987 — Single European Act

This Act, which entered into force on 1 July 1987 and amended the EEC Treaty, confirmed the objective of completing an area without frontiers by 1992 according to the timetable set out in the 1985 White Paper. It adapted the Community's decision-making procedures and increased the scope for qualified majority (as opposed to unanimous) voting in the Council. It has facilitated the adoption of the measures listed in the White Paper. But the major decisions relating to border controls still require unanimity in the Council (tax controls and controls on individuals).

Article 8a placed a clear obligation on the Community and its Member States to abolish all checks at frontiers as from 1 January 1993. This objective has not yet been fully achieved. The abolition of frontier checks does not mean the abolition of all controls: controls may of course continue on national territory to ensure compliance with the law, as is currently the case.

#### 1993 — Treaty on European Union

The Union Treaty, which came into effect on 1 November 1993, continues the single market process. It will enable common policies and measures to be implemented in support of economic integration by extending the Community's fields of responsibility (environment, trans-European networks, consumer protection, education, culture, vocational training), supplementing and adjusting the range of available legislative procedures and transferring to the European Community responsibility for certain matters currently dealt with at intergovernmental level.

The harmonization of national rules on the establishment and operation of the internal market now comes under the co-decision procedure introduced by the Treaty.

### General situation

(a) In the case of goods, the Community first of all sought to abolish the basic customs formalities applicable to products and services moving within the Community: customs forms

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have therefore been abolished, the collection of statistical data has been reorganized, and exchange controls and in particular tax formalities have been eliminated.

It was then necessary to take compensatory measures to re-establish the levels of protection that frontier checks were considered to provide. Those compensatory measures have been taken, particularly in the fields of human health, animal health (veterinary controls), plant health (phytosanitary controls), the environment and public safety. Generally speaking, machinery for administrative cooperation has been introduced for the transmission and processing of information.

(b) As regards checks on individuals, the elimination of police and customs-authority involvement at borders has taken more varied forms:

- legislation in the case of goods transported;
- intergovernmental agreements in the case of the status of individuals and cooperation in judicial matters;
- cooperation between police and customs authorities in the case of terrorism, drug trafficking and fraud.

## **Physical barriers at frontiers**

The physical barriers at the frontiers between Member States impede the movement of both goods and individuals.

In the case of goods, checks and controls were carried out for a number of purposes, including the gathering of trade statistics, the implementation of quantitative restrictions on imports and the administration of transport policy. Because of these checks and controls, commercial vehicle drivers had to carry extensive documentation and had to wait their turn in queues at customs posts.

Firstly, many of the checks and controls were transferred to other locations within Member States; this reduced but did not eliminate the cost of such controls.

Secondly, measures have been taken to abolish the controls themselves: the Council has abolished the obligation on carriers to lodge a transit advice note when transporting goods across internal frontiers under the transit procedure. This measure, which has made cross-border transport easier, has been supplemented by the reorganization of the Community transit system. This reorganization, which took effect on 1 January 1993, has led to the abolition of the transit procedure in intra-Community trade.

In addition, the Single Administrative Document, which formed the basis of all customs procedures, has been abolished as from 1 January 1993. This measure is based on the assumption that all products on the Community market have 'Community status' and that there is therefore no need for checks on place of origin in intra-Community trade; proof that a product originates in the Community is now supplied solely by the invoice and no longer by administrative documents, which have therefore been abolished.

In the case of individuals, passport controls, occasional searches of baggage and vehicles, and customs checks on purchases were a constant reminder that the Community was divided into 12 separate territories. In a true Community, characterized by the ever-closer union to which the Member States committed themselves when signing the Treaty of Rome, such frontier formalities have no place. Community citizens should not have to produce documents proving their identity or nationality or have to have goods in their baggage cleared by customs when moving from one Member State to another. On this front, it was necessary to eliminate the reasons for the controls, which, in the case of individuals, usually took the form of tax, health, police or immigration checks. Measures were therefore taken, at intergovernmental level and therefore outside the Community framework, to subject the movement of drugs and



arms to surveillance, to abolish tax formalities and to control access to Community territory for nationals of third countries. In 1990, France, Germany, Belgium, the Netherlands and Luxembourg signed the Schengen Agreement, followed by Italy, Spain, Portugal and Greece. Under this Agreement, which is to enter into force in October 1994 for seven of these States, the nine countries concerned are to do away with checks on individuals crossing the borders between them. Further work has been carried out at the same time in other intergovernmental frameworks and has led, among other things, to:

- signature of the Dublin Convention determining the State responsible for examining applications for asylum;
- formulation of a common anti-drug strategy and creation of the European Monitoring Centre for Drugs and Drug Addiction;
- compilation of binding or indicative lists of third countries whose nationals must obtain a visa in order to enter the Community.

Action has also been taken to combat counterfeiting, fraud and imports of dangerous products.

The abolition of border controls on individuals raises the question of the need to reinforce controls at external borders in order to prevent, for example, drug trafficking, illegal immigration, terrorism and organized crime. The Convention on the crossing of external frontiers, which deals with these matters, has not yet been ratified by all Member States. The entry into force of the Treaty on European Union will make it possible to move ahead on these fronts since it provides for cooperation within the Council in nine new areas: asylum policy, the crossing of external frontiers, immigration policy, action to combat drug abuse and fraud, judicial cooperation in civil and criminal matters, customs cooperation and cooperation between police forces in the fight against terrorism and international crime. In concrete terms, cooperation is being organized between the national administrations and a coordinating committee has been set up to prepare the work of the Council of the European Union.

In order to use to the full the new possibilities available under the Union Treaty in the field of justice and home affairs, the European Council adopted an initial action plan at its meeting in Brussels on 10 and 11 December 1993. The objectives are as follows: start-up of the Europol drugs unit and application of a comprehensive anti-drugs strategy; stepping-up of judicial cooperation between Member States; establishment of a common list of non-member countries whose nationals require visas in order to enter the Community; coordination between policies in the field of justice and home affairs and the common foreign and security policy. The proposals which the Commission has put forward under its new responsibilities (list of countries whose nationals have to obtain visas and revision of the Convention on the crossing of external frontiers) are designed to begin implementing this initial action plan.

## Tax controls

Within the European Community, tax controls were among the most important functions performed at, or in connection with, frontiers. Linked to the movement of goods across frontiers, they therefore constituted a major barrier to the movement within the Community of goods and, therefore, of the individuals transporting them. As these controls were incompatible with the aim of creating a single market in which conditions are identical to those obtaining on a domestic market, they have been abolished.

(a) In the case of VAT, this abolition of checks is taking place in two stages.

The transitional VAT arrangements came into effect on 1 January 1993. The concepts of, and the formalities associated with, exportation and importation no longer apply to intra-Community trade. The arrangements retain the principle of taxation in the Member State of consumption and partly harmonize Member States' VAT rates.

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In the second stage a definitive system is to be introduced on 1 January 1997. As from that date, supplies of goods and services will be taxed in the country of origin, and a uniform basis of assessment will be applied.

The smooth operation of the VAT arrangements depends on close and systematic cooperation between national tax authorities. This has been organized and promoted through the creation of a computerized network called SITE (système informatisé pour les échanges TVA — computerized system for the exchange of information on VAT), through which Member States will exchange information supplied by traders.

The clear advantage of this new method of VAT collection for firms is matched, for individuals, by the gradual abolition of the tax-paid allowances which existed and which justified frontier checks. Goods purchased inclusive of VAT in a Member State may be carried freely by any traveller who is a Community national. Special arrangements remain for a transitional period, in particular for new vehicles and tax-free sales.

(b) The holding, movement and control of products subject to excise duties (alcohol, manufactured tobacco and mineral oils) is regulated by a definitive Community system that has been in place since 1 January 1993. Excise duties are collected when the product is released for consumption, at the rate in force in the country of consumption.

Excise-duty rates and structures have also been harmonized to some extent, although wide disparities remain between the rates applied by Member States and these are preventing tax barriers being effectively dismantled in the Community.

## 1. CONTROL OF GOODS

### Current position and outlook

Since 1 January 1993 goods crossing the Community's internal frontiers have no longer been subject to controls. The free movement of goods within the Community presupposes the prohibition between Member States of customs duties and charges having equivalent effect, the adoption of a common customs tariff for trade between Member States and third countries, the prohibition of any quantitative restrictions or measures having equivalent effect, and the adjustment of State monopolies. These measures are designed to fuse the 12 markets of the Member States into a single economic area within which Community goods are free to move under conditions similar to those obtaining on a domestic market. The abolition of frontier formalities is based on four indissociable elements:

#### (a) Elimination of customs documents in intra-Community trade

Steps have been taken since 1989 to terminate the use of the Single Administrative Document and the transit document in intra-Community trade by 1 January 1993. However, those documents will continue to be used for administering special trade arrangements, such as the transitional measures in the Act of Accession of Spain and Portugal for certain agricultural products (summary 1.29).

Notwithstanding its abolition for intra-Community trade, the transit document will continue to be used for goods transiting EFTA countries and goods moving between the Community's VAT territory and those parts of its customs territory that lie outside the VAT territory.

For reasons connected with the physical context, arrangements have been made in airports and ports for there to be a common definition of what will constitute air and sea links with third countries in order to guarantee the elimination of all administrative action involving the luggage of travellers moving within the Community (summary 1.8).

#### (b) New rules governing the movement of goods

In order to eliminate the need for the Single Administrative Document, which was used mainly for administering tax controls, for collecting statistical data and for safeguarding Member States' economic, commercial or public policy interests, a series of measures have been taken to define the new rules governing the movement of products. It was first of all necessary to redefine the tax control arrangements (VAT and excise duty) by shifting those controls to business premises (VAT) or to authorized warehouses (excise duty). In addition, the collection of statistical data, previously carried out systematically at frontiers, has now been replaced by returns which are submitted by firms and forms an integral part of national data-collection systems (summaries 1.11 and 1.12).

These general arrangements, which apply to all products, are accompanied by specific arrangements for certain products that are subject, for various reasons, to special movement, control or marketing procedures.

The most important field here is clearly that of agricultural products (animals, meat, plants and seed), where there remain some rules for protecting animal, plant and human health.

Generally speaking, agricultural products are still subject to special trade procedures either on account of the monetary compensatory amounts designed to protect the value of agricultural prices in the event of currency fluctuations or on account of the transitional arrangements applicable until 31 December 1995 under the Act of Accession for Spain and Portugal. However, changes made to the operation of those special procedures will guarantee that they can function without frontier controls (summaries 1.28 and 1.29).

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The common organization of markets was reviewed in 1992 so as to eliminate all arrangements based on frontier controls (milk, cereals and refined sugar).

The last common organization to be adopted is that for bananas (summary 1.27). This scheme has caused much controversy and has been challenged in various actions brought before the Court of Justice.

Finally, it is necessary to ensure that Member States' legitimate objectives in certain specific fields are not affected: it is for this reason that measures have been taken to secure the return of cultural objects unlawfully removed from a Member State (summary 1.19) and to control the movement of drug precursors (summaries 1.13 and 1.14) and the transfer of waste (summaries 1.22 to 1.24).

#### (c) Reinforcement of external frontiers

The abolition of controls at internal frontiers presupposes that external frontiers are administered consistently and in a 'Community spirit'. The officials responsible for carrying out controls will be acting on behalf of all national authorities and in the interests of all firms and consumers in the Community.

The Community Customs Code (summary 1.10) establishes a common legal framework for customs controls. Additional specific measures have been taken in the veterinary and plant-health fields and in connection with cultural goods (summaries 1.18 and 1.19), drug precursors and psychotropic substances (summaries 1.13 and 1.14), international trade in protected species (summary 1.25) and the fight against counterfeiting (summaries 1.20 and 1.21).

#### (d) Cooperation between administrations

The abolition of frontier controls means that cooperation and the exchange of information between national authorities and the Commission must be stepped up. A number of different arrangements have been introduced:

- machinery for exchanging information has been brought in to reinforce cooperation in the customs field through the setting-up of a database for the integrated customs tariff of the European Communities (TARIC), for the exchange and monitoring of tariff classifications of goods issued by national administrations ('binding tariff information'), for goods subject to special arrangements, for transit arrangements for goods under customs control, and for the monitoring of Community exports of strategic goods and works of art. Similar networks were established from December 1992 in connection with the campaign against fraud (SID) (summary 1.37) and in January for indirect taxation (VIES), the monitoring of live animals (ANIMO) (summary 1.35) and meat (SHIFT) (summary 1.36), and statistics on trade in goods between Member States (Comedi) (summary 1.34).
- machinery for cooperation between administrations has been set up to promote mutual assistance, particularly in the field of veterinary checks, waste (summaries 1.22 and 1.24), explosives, and cultural goods (summaries 1.18 and 1.19). To organize this cooperation more effectively, the Commission has set up a number of new internal structures: an Office for Veterinary and Plant-Health Inspection and Control, which is to provide a permanent link with the corresponding national administrations, Europol, which has the same role to play in the law-enforcement sphere, and CELAD, which coordinates the fight against drugs.
- finally, steps have been taken to provide training for officials and to promote convergence in administrative practices: the Matthaëus programme provides for the exchange of customs officials between national administrations, for their training and for the introduction of training programmes in customs schools (summary 1.15); this

same approach is being extended to all national officials engaged in administering the instruments involved in the operation of the internal market (Karolus programme) and officials responsible for indirect taxation (summary 1.16). Similar measures have been in progress for a number of years to assist veterinary inspectors.

## 1. CONTROL OF GOODS

### 1.1. Customs controls and formalities: Single Administrative Document

<i>(1) Objective</i>	To modify the scope of the SAD to take account of the situation created by Article 8a of the Treaty.
<i>(2) Community measures</i>	Council Regulation (EEC) No 717/91 of 21 March 1991 concerning the Single Administrative Document.
<i>(3) Contents</i>	<p>1. The Regulation provides for the abolition of the SAD for trade within the Community in Community products. The SAD will continue to be used for trade with non-member countries and, on a temporary basis, for some trade between the Community of Ten and Spain or Portugal, and between those two countries.</p> <p>2. The Regulation sets out the circumstances in which Member States may require administrative documents other than that referred to in point 1.</p> <p>3. Declarations must be accompanied by the documents necessary to place the goods in question under the procedure requested. Lodging a signed declaration with a customs office indicates that the person concerned wishes to declare the goods in question. It also makes him liable for:</p> <ul style="list-style-type: none"><li>— the accuracy of the information given in the declaration,</li><li>— the authenticity of the documents attached,</li><li>— observance of all the obligations inherent in placing the goods in question under the procedure concerned.</li></ul> <p>4. The Regulation provides for the setting-up of a Single Administrative Document Committee empowered to examine any question relating to the implementation of the Regulation.</p> <p>5. It also lays down a procedure for the adoption of the provisions necessary for applying the Regulation, in particular those relating to:</p> <ul style="list-style-type: none"><li>— the form,</li><li>— the codes to be used on the form,</li><li>— the quality of the paper, the size of the form and the colour of the copies,</li><li>— the explanatory notes on the use of the form.</li></ul>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	Not applicable.
<i>(5) Date of entry into force (if different from the above)</i>	29.3.1991. The Regulation will apply from 1 January 1993.
<i>(6) References</i>	Official Journal L 78, 26.3.1991
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	<p>— Regulation (EEC) No 2453/92 — Official Journal L 249, 28.8.1992</p> <p>Commission Regulation of 31 July 1992 implementing Regulation (EEC) No 717/91 concerning the Single Administrative Document.</p> <p>The aim of the Regulation is to continue existing Commission legislation in a single instrument covering all aspects connected with the Single Administrative Document. These measures particularly</p>

relate to the layout of the forms and the drawing-up of the notice for the use of the Single Administrative Document, the transposition of existing codes into the new legislation and simplification measures allowing formalities to be reduced.

This Regulation has been amended by Commission Regulation (EEC) No 3694/92 of 21 December 1992 amending Regulation (EEC) No 2453/92 concerning the Single Administrative Document as of 21 December 1992 (Official Journal L 374, 22.12.1992).

This Regulation has been amended further by Commission Regulation (EEC) No 607/93 concerning the list of codes for the Single Administrative Document (Official Journal L 65, 17.3.1993).

This Regulation is also intended to adapt existing legislation to the agreement with San Marino and the new procedures for the transfer of goods or products subject to inward processing arrangements.

Under Article 22 of Commission Regulation (EEC) No 2453/92 the Commission is required to publish the list of the items of information on the single document which, although optional for Community purposes, are required by the Member States (Commission Communication — Official Journal C 171, 22.6.1993).

— Regulation (EEC) No 2713/92 — Official Journal L 275, 18.9.1992.

Commission Regulation of 17 September 1992 on the movement of goods between certain parts of the customs territory of the Community. This Regulation provides the legal basis for procedures for trade in goods between two parts of the customs territory with different taxation procedures.

For this purpose, it lays down complementary practical measures to the provisions of Council Regulation (EEC) No 2726/90 on Community transit (summary 1.2) and the Commission Regulation (EEC) implementing Regulation (EEC) No 717/91 concerning the Single Administrative Document.

— On 17 December 1992 the Commission adopted a report on the implementation of Regulation (EEC) No 717/91 on the Single Administrative Document.

This report examines the progress made in harmonizing the measures to complete the internal market required for the proper application of Regulation (EEC) No 717/91.

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## 1. CONTROL OF GOODS

### 1.2. Customs controls and formalities: Community transit

- (1) *Objective* To modify the operation and scope of the Community transit procedure in order to allow goods covered by the internal market to move freely within the Community.
- (2) *Community measures* Council Regulation (EEC) No 2726/90 of 17 September 1990 on Community transit.
- (3) *Contents*
1. From 1 January 1993 the Community transit procedure will apply in the main to non-Community goods (external Community transit) and it will apply to Community goods (internal Community transit) only in quite specific cases: when goods are dispatched via the EFTA countries, or in trade between the Community of Ten and Spain and Portugal, or between those two countries, in goods to which the special measures laid down by the Act of Accession will continue to apply on a transitional basis.
  2. In principal, Community goods moving within the Community will no longer be subject to customs controls and formalities. Such goods will move freely, as they do at present within any one Member State.
  3. External Community transit: the external Community transit procedure will apply to the movement of goods other than those originating in a Member State, products from third countries, goods coming under the Treaty establishing the European Coal and Steel Community not in free circulation in the Community, and goods that are subject to a Community measure entailing their export to a third country and for which the corresponding customs export formalities have been completed.
  4. The external Community transit procedure will remain applicable in full; goods that are to be carried under that procedure must be the subject of a declaration.
  5. The office of departure (i.e. the office where the Community transit operation begins) accepts and registers the declaration, and prescribes the period within which the goods must be produced at the office of destination.
  6. The principal (i.e. the person responsible to the competent authorities for complying with all the obligations inherent in placing goods under the Community transit procedure) must produce the goods intact at the office of destination within the period prescribed. The carrier or the consignee of the goods who accepts them knowing that they have been placed under the Community transit procedure must likewise produce them intact at the office of destination within the period prescribed.
  7. Identification of the goods is ensured by sealing. In order to ensure collection of the duties and other charges which a Member State is authorized to collect in respect of goods passing through its territory, the principal must furnish a guarantee. This may take the form of a comprehensive guarantee covering a number of Community transit operations or it may be a single guarantee covering one Community transit operation only.
  8. Internal Community transit: all goods to be carried under the internal Community transit procedure must be the subject of a declaration. In a wide variety of cases, a guarantee may be waived.



The internal Community transit procedure will continue to apply only in quite specific circumstances (e.g. where goods pass through an EFTA country — see above).

9. Special provisions applying to carriage by air or sea.

10. Special provisions applying to postal consignments.

*(4) Deadline for implementation of the legislation in the Member States*

Not required.

*(5) Date of entry into force (if different from the above)*

29.9.1990. The Regulation is applicable from 1 January 1993.

*(6) References*

Official Journal L 262, 26.9.1990

*(7) Follow-up work*

*(8) Commission implementing measures*

— Regulation (EEC) No 1214/92 — Official Journal L 132, 16.5.1992  
Commission Regulation of 21 April 1992 on provisions for the implementation of the Community transit procedure and for certain simplifications of that procedure.

This Regulation lays down the provisions implementing the reformed Community transit procedure in view of the abolition of internal frontiers on 1 January 1993 and simplifies the customs procedures still applicable to transit. This Regulation has been amended by Commission Regulation (EEC) No 3712/92 of 21 December 1992 (Official Journal L 378, 23.12.1992).

— Regulation (EEC) No 2713/92 — Official Journal L 275, 18.9.1992  
Commission Regulation of 17 September 1992 on the movement of goods between certain parts of the customs territory of the Community. This Regulation provides the legal basis for procedures for trade in goods between two parts of the customs territory with different taxation procedures.

For this purpose, it lays down complementary practical measures to the provisions of Council Regulation (EEC) No 2726/90 on Community transit and the Commission Regulation (EEC) implementing Regulation (EEC) No 717/91 concerning the Single Administrative Document (summary 1.1).

— Regulation (EEC) No 3566/92 — Official Journal L 362, 11.12.1992  
Commission Regulation of 8 December 1992 on the documents to be used for the purpose of implementing Community measures entailing verification of the use and/or destination of goods.

This Regulation provides for measures to identify documents used for the control of Community goods which are subject to a use or destination provided for or prescribed.

— Commission report of 17 December 1992 on the implementation of Regulation (EEC) No 2726/90 on Community transit.  
This report takes stock of the work of harmonization in connection with the completion of the single market, looking at legislation, implementing measures and administrative cooperation.

## 1. CONTROL OF GOODS

### 1.3. Customs controls and formalities: Community transit: use of TIR and ATA carnets

<i>(1) Objective</i>	To abolish all checks and formalities at the Community's internal frontiers on transport operations under cover of TIR or ATA Conventions.
<i>(2) Community measures</i>	Council Regulation (EEC) No 719/91 of 21 March 1991 on the use in the Community of TIR carnets and ATA carnets as transit documents.
<i>(3) Contents</i>	<ol style="list-style-type: none"><li>1. When goods are carried in, or pass in transit through, Community territory under TIR or ATA Convention arrangements, the Community is regarded as forming a single territory for the purposes of the transport or transit operation.</li><li>2. The terms 'customs office <i>en route</i>' and 'transit' are defined.</li><li>3. Where, in the course of transport from one point in the Community to another, goods pass through the territory of a third country, the checks and formalities associated with the TIR or ATA procedures have to be carried out at the points where the goods temporarily leave the customs territory of the Community and then re-enter it.</li><li>4. Where the application of the TIR Convention is concerned, when a consignment enters, or carriage thereof begins within, the customs territory of the Community, the guaranteeing association becomes — or is — responsible to the authorities of each Member State whose territory the TIR consignment enters, until it leaves the customs territory of the Community or arrives at the customs office of destination in that territory.</li><li>5. When goods are transported under cover of TIR or ATA carnets within the customs territory of the Community, they are regarded as non-Community goods, unless their Community status is duly established.</li><li>6. Where offences or irregularities are committed during a transport operation under cover of a TIR or ATA carnet in a given Member State, the latter is regarded as the Member State competent to recover any duties or charges and impose penalties. Where it is not possible to determine in which territory the offence or irregularity was committed, the latter is deemed to have been committed in the Member State where it was noted unless proof to the contrary is furnished.</li><li>7. Findings made by the competent authorities of one Member State in applying this Regulation have the same force in other Member States. Where necessary, the competent authorities are required to communicate to one another all information relating to TIR or ATA consignments and to any offences or irregularities noted.</li><li>8. Any matter concerning the application of this Regulation may be examined by the Committee on Community Transit provided for in Article 42 of Council Regulation (EEC) No 2726/90 (summary 1.2). The Commission adopts whatever provisions are necessary for the implementation of this Regulation, after consulting the Committee.</li></ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	Not applicable.



(5) *Date of entry into force (if different from the above)* 29.3.1991. The Regulation is applicable from 1 January 1992.

(6) *References* Official Journal L 78, 26.3.1991

(7) *Follow-up work*

(8) *Commission implementing measures*

— Regulation (EEC) No 1593/91 — Official Journal L 148, 13.6.1991  
Commission Regulation of 12 June 1991 providing for the implementation of Council Regulation (EEC) No 719/91 on the use in the Community of TIR carnets and ATA carnets as transit documents.

— Regulation (EEC) No 3689/92 — Official Journal L 374, 22.12.1992  
Commission Regulation of 21 December 1992 laying down detailed rules for the application of Council Regulation (EEC) No 719/91 on the use in the Community of TIR carnets and ATA carnets as transit documents and of Council Regulation (EEC) No 3599/82 on temporary importation arrangements.

This Regulation provides for uniform arrangements for the provision of information and transfers of proceedings between Member States concerning the operation of the guarantee system for the ATA carnet, used both as a transit document and for the purposes of temporary importation.

— Regulation (EEC) No 3691/92 — Official Journal L 374, 22.12.1992  
Commission Regulation of 21 December 1992 laying down provisions for the implementation of Council Regulation (EEC) No 719/91 on the use in the Community of TIR carnets and ATA carnets as transit documents and Council Regulation (EEC) No 3599/82 on temporary importation arrangements.

This Regulation provides for arrangements to authorize the continuation of transit and/or temporary importation operations initiated under cover of an ATA carnet before 31 December 1992 under the conditions laid down in the Regulations in question.

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## 1. CONTROL OF GOODS

### 1.4. Customs controls and formalities: abolition of customs formalities at internal frontier crossings

<i>(1) Objective</i>	Abolition of customs formalities at internal frontier crossings for goods belonging to or intended for NATO armed forces (Form 302).
<i>(2) Community measures</i>	Council Regulation (EEC) No 3648/91 of 13 December 1991 laying down the procedures governing the use of Form 302 and repealing Regulation (EEC) No 3690/86 concerning the abolition within the framework of the TIR Convention of customs formalities on exit from a Member State at a frontier between two Member States, and Regulation (EEC) No 4283/88 on the abolition of certain exit formalities at internal Community frontiers — introduction of common border posts.
<i>(3) Contents</i>	<p>1. Where goods are transported within the Community under the cover of Form 302 (established under the convention between the parties to the North Atlantic Treaty on the status of their forces) the Community shall be considered, for the purposes of the rules governing the use of the said form for such transport, to form a single territory.</p> <p>2. Where, in the course of a transport operation, goods pass through the territory of a third country, the checks and formalities inherent in Form 302 shall be applied at the points where the goods temporarily leave the customs territory of the Community and where they re-enter that territory.</p> <p>3. The Regulation lays down the steps to be followed where it is found that, in the course of, or in connection with, a transport operation carried out under cover of Form 302, an offence or an irregularity has been committed. The Member States shall take the necessary measures to deal with any offence or irregularity and to impose effective penalties.</p>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	Not required.
<i>(5) Date of entry into force (if different from the above)</i>	20.12.1991. The Regulation is applicable from 1 January 1992.
<i>(6) References</i>	Official Journal L 348, 17.12.1991
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	

## 1. CONTROL OF GOODS

### 1.5. Customs controls and formalities: postal charges for customs presentation

<i>(1) Objective</i>	To abolish formalities and charges which apply to intra-Community trade, this Regulation removes postal charges for customs presentation in respect of consignments of Community goods sent from one Member State to another.
<i>(2) Community measures</i>	Council Regulation (EEC) No 1797/86 of 9 June 1986 abolishing certain postal charges for customs presentation.
<i>(3) Contents</i>	<p>1. Postal charges for presentation to customs can no longer be levied on consignments of goods sent from a Member State to another, where the goods either:</p> <ul style="list-style-type: none"> <li>— originate in a Member State; or</li> <li>— come from a third country and are in free circulation in the Community.</li> </ul> <p>2. Spain and Portugal may apply the provisions in force as regards postal charges for customs presentation in respect of trade with third countries to trade within the Community on the same conditions, for as long as customs duties are levied in respect of such trade.</p>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	Not required.
<i>(5) Date of entry into force (if different from the above)</i>	1.1.1988. Derogations for Spain and Portugal.
<i>(6) References</i>	Official Journal L 157, 12.6.1986
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	

## 1. CONTROL OF GOODS

### 1.6. Customs controls and formalities: elimination of transport checks at frontiers

<i>(1) Objective</i>	To abolish frontier checks and formalities related to road vehicles, their drivers, inland waterway vessels and the corresponding documentation.
<i>(2) Community measures</i>	<p>Council Regulation (EEC) No 4060/89 of 21 December 1989 on the elimination of controls of Member States performed at the frontiers of Member States in the field of road and inland waterway transport.</p> <p>Council Regulation (EEC) No 3356/91 of 7 November 1991 amending Regulation (EEC) No 4060/89 on the elimination of controls of Member States performed at the frontiers of Member States in the field of road and inland waterway transport.</p>
<i>(3) Contents</i>	<p>1. Controls under Community or national law in the fields of road and inland waterway transport between Member States shall no longer be performed at the frontiers between Member States.</p> <p>2. The Regulation defines:</p> <ul style="list-style-type: none"><li>— 'frontier' as either an internal frontier within the Community or an external frontier, where carriage between Member States involves crossing a third country;</li><li>— 'controls' as any check, inspection, verification or formality performed at the frontier of Member States, which involves a stop or a restriction on the free movement of the vehicles or vessels concerned.</li></ul> <p>3. Annexes containing details of Community and national legislation which at present give rise to checks and inspections, e.g. controls on driving licences, roadworthiness certificates for motor vehicles and their trailers, technical requirements for inland waterway vessels, weights and dimensions of road vehicles, inspection of passenger lists for road services, checks on social provisions relating to transport.</p>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	Not applicable.
<i>(5) Date of entry into force (if different from the above)</i>	<ul style="list-style-type: none"><li>— Regulation (EEC) No 4060/89: 1.7.1990</li><li>— Regulation (EEC) No 3356/91: 1.1.1992</li></ul>
<i>(6) References</i>	Official Journal L 390, 30.12.1989 Official Journal L 318, 20.11.1991
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	



## 1. CONTROL OF GOODS

### 1.7. Customs controls and formalities: abolition of certain internal frontier controls in the field of road and inland waterway transport and their transfer to the Community's external frontiers

<i>(1) Objective</i>	To abolish and transfer to the Community's external frontiers the internal frontier controls carried out by the Member States in the field of road and inland waterway transport on means of transport registered or put into circulation in a non-Community country.
<i>(2) Community measures</i>	Council Regulation (EEC) No 3912/92 of 17 December 1992 on controls carried out in the Community in the field of road and inland waterway transport on means of transport registered or put into circulation in a non-Community country.
<i>(3) Contents</i>	<p>1. The Regulation applies to controls carried out in the Community by Member States in relation to transport operations by road and waterway performed by means of transport registered or put into circulation in a non-Community country. It does not affect the Member States' right to carry out controls at the time of entry on means of transport from a non-Community country in order to ascertain that those means of transport are authorized to perform transport operations in or through their territory.</p> <p>2. Definitions of 'control' and 'international agreement'.</p> <p>3. The abovementioned controls are no longer carried out as frontier controls at the Community's internal frontiers but only as part of the controls normally carried out by Member States in their territory.</p> <p>4. The Member States are to take all measures needed to institute cooperation between their competent authorities.</p>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	Not required.
<i>(5) Date of entry into force (if different from the above)</i>	1.1.1993
<i>(6) References</i>	Official Journal L 395, 31.12.1992
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	

## 1. CONTROL OF GOODS

### 1.8. Customs controls and formalities: elimination of controls and formalities applicable to baggage

#### *(1) Objective*

To ensure the free movement of goods in the internal market by eliminating controls on the cabin and checked baggage of persons taking an intra-Community flight and the baggage of persons making an intra-Community sea-crossing.

#### *(2) Community measures*

Council Regulation (EEC) No 3925/91 of 19 December 1991 concerning the abolition of controls and formalities applicable to the cabin and checked baggage of persons taking an intra-Community flight and the baggage of persons making an intra-Community sea-crossing.

#### *(3) Contents*

1. The Regulation prohibits the carrying-out of controls and formalities in respect of:
  - the cabin and checked baggage of persons taking an intra-Community flight;
  - the baggage of persons making an intra-Community sea-crossing.
2. Definitions of the following terms: 'Community airport', 'international Community airport', 'Community flight', 'Community port', 'intra-Community sea-crossing', 'pleasure craft', 'private or business aircraft'.
3. Any control and any formality in respect of the hand and checked baggage of persons taking a flight aboard an aircraft:
  - which began at a non-Community airport and continues between two Community airports shall be carried out at the last airport, provided that it is an international Community airport;
  - which, following a stopover at a Community airport, has to continue this flight to a non-Community airport shall be carried out at the airport of departure provided that it is an international Community airport.
4. Any control and any formality in respect of the baggage of persons using a shipping service carried out by the same ship and comprising successive legs which begins, terminates or calls at a non-Community port is to be carried out in the port where the baggage in question is loaded or unloaded.
5. The baggage of persons using:
  - pleasure craft is to be controlled in any Community port;
  - private or business aircraft is to be controlled at the first airport of arrival which must be an international Community airport where the flights in question began at a non-Community airport and continue between two Community airports. The baggage in question is to be controlled at the last international Community airport when the flights in question began at a Community airport and continue, after a stop, to a non-Community airport.
6. Checked baggage coming from a non-Community airport which is transferred at a Community airport to another aircraft proceeding on an intra-Community flight, would be controlled at the airport of destination of the intra-Community flight.
7. Baggage loaded on to an aircraft proceeding on an intra-Community flight for transfer at another Community airport, would be controlled at the airport of departure of the intra-Community flight.



8. Baggage arriving at a non-Community airport on a scheduled or charter aircraft and transferred, at a Community airport, to a private or business aircraft making an intra-Community flight, shall be controlled at the airport of arrival of the scheduled or charter aircraft.
9. Baggage on board a private or business aircraft making an intra-Community flight in order to be transferred, at another Community airport, to a scheduled or charter aircraft leaving for a non-Community airport shall be controlled at the airport of departure of the scheduled or charter aircraft.

*(4) Deadline for implementation of the legislation in the Member States*

*(5) Date of entry into force (if different from the above)*

*(6) References*

*(7) Follow-up work*

*(8) Commission implementing measures*

3.1.1992. The Regulation is applicable from 1 January 1993.

Official Journal L 374, 31.12.1991

The Council intend to re-examine the Regulation before 1 October 1992.

Regulation (EEC) No 1823/92 — Official Journal L 185, 4.9.1992  
 Commission Regulation of 3 July 1992 laying down detailed rules for the application of Council Regulation (EEC) No 3925/91.  
 This Regulation lays down several implementing provisions designed to prevent Regulation No 3925/91 being a potential source of fraud, and in particular to avoid goods being transferred before controls can be carried out. It lays down the arrangements according to which the competent authorities will be able to identify the baggage for which controls and formalities have been abolished. Lastly, it regulates certain special cases which Regulation No 3925/91 had held back for the implementing provisions.

## 1. CONTROL OF GOODS

### 1.9. Customs controls and formalities: movement of goods within the Community: general application of temporary use

(1) *Objective* To introduce arrangements for movement within the Community in order to apply them to the widest possible range of goods, while taking account of the eventual risk of frauds.

(2) *Community measures* 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.

Council Regulation (EEC) No 1292/89 of 3 May 1989 which amends 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.

(3) *Contents*

1. The free movement arrangements apply to the goods defined in Article 1.
2. Definitions of the following concepts: 'beneficiary', 'Member State of departure', 'office of departure', 'office of entry', 'office of exit' and 'office of transit'.
3. The Regulations do not preclude the ATA carnet procedure, simpler procedures used for frontier-zone traffic, or those employed in particular for the temporary importation of travellers' personal effects and packages, or a national procedure at the request of the person concerned.
4. Only natural or legal persons established in the Member State of departure are eligible for the arrangements.
5. For the purposes of movement under the arrangements goods must be covered by a Community movement carnet issued by the competent authorities of the Member State of departure.
6. The arrangements terminate when the goods have been produced again, with the carnet, before the expiry of its period of validity, at any competent customs office in the Member State of departure.
7. The Regulations lay down the procedure for recovering any charges payable in the event of an irregularity affecting an intra-Community movement operation.
8. The Regulations also set up a Committee on Arrangements for the temporary movement of goods within the Community and lays down its powers.

(4) *Deadline for implementation of the legislation in the Member States* Not applicable.

(5) *Date of entry into force (if different from the above)*  
— Regulation (EEC) No 3/84: 1.7.1985  
— Regulation (EEC) No 1292/89: 1.7.1989

(6) *References* Official Journal L 2, 4.1.1984  
Official Journal L 130, 12.5.1989



*(7) Follow-up work*

*(8) Commission  
implementing  
measures*

Regulation (EEC) No 2364/84 — Official Journal L 222, 20.8.1984  
Commission Regulation 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.

## 1. CONTROL OF GOODS

### 1.10. Customs controls and formalities: Community Customs Code

*(1) Objective* To codify customs law which has hitherto been spread over a wide range of EC Regulations and Directives, at the same time amending the legislation to make it more consistent, simplify it and close existing loopholes.

*(2) Community measures* Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code.

*(3) Contents*

1. The code aims to bring together the general rules and all the customs procedures applicable to goods traded between the Community and non-Community countries in a single, coherent body of law. It replaces and supplements the 30 or so legislative acts passed between 1968 and 1990 which were previously in force.
2. The code starts by stating its scope and some basic definitions. It sets out general provisions on people's rights and obligations with regard to customs legislation (right of representation, decisions, information, etc.).
3. The code lists the factors on the basis of which import and export duties and other measures prescribed in respect of trade in goods are applied. These are: the Customs Tariff of the European Community and the tariff classification of goods, their origin (preferential or non-preferential) and their customs value.
4. The code lists the provisions applicable to goods brought into the customs territory of the Community until they are assigned a customs-approved treatment or use. It covers the entry of goods into the customs territory of the Community, presentation of goods to customs, summary declaration and unloading of goods, the obligation to assign them a customs-approved treatment or use, and their temporary storage. Special provisions apply to non-Community goods which are moved under a transit procedure.
5. A major section of the code covers customs-approved treatment or use. It sets out rules for placing goods under a customs procedure, release of goods for free circulation, conditional exemption procedures and customs procedures with economic impact, export and internal transit. Special provisions cover the position of free zones and free warehouses (which are part of Community customs territory but are separate from the rest of it) and the re-exportation, destruction and abandonment of non-Community goods.
6. The section on 'Privileged operations' sets out provisions for reliefs from duty, returned goods, and products of sea-fishing and other products taken from the sea. Another on 'Customs debt' sets out rules on providing security for customs debt, incurring and recovering debts.
7. The code provides for a two-stage right of appeal: in the first instance to the customs authority, then to the national courts. It establishes a Customs Code Committee with responsibility for examining any matter relating to customs Regulations. The code also sets out the legal effects in a Member State of measures taken, documents issued and findings made in another Member State.

<i>(4) Deadline for implementation of the legislation in the Member States</i>	Not applicable.
<i>(5) Date of entry into force (if different from the above)</i>	1.1.1994, except for derogations
<i>(6) References</i>	Official Journal L 302, 19.10.1992
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	<p>Regulation (EEC) No 2454/93 — Official Journal L 253, 11.10.1993</p> <p>Commission Regulation of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code.</p> <p>The Regulation brings together in a single corpus customs implementing provisions which were previously scattered over a large number of Community regulations and directives.</p> <p>It incorporates the existing rules, amending them where necessary to adapt them to the provisions of the Code, extending the scope of certain provisions which currently apply only to specific customs procedures in order to take account of the Code's comprehensive application and formulating certain rules more precisely in order to achieve greater legal certainty in their application.</p> <p>This Regulation was amended by Commission Regulation (EEC) No 3665/93 correcting the mistakes which have occurred in consolidation and incorporating amendments to the regulations which have been made since the text was finalized (Official Journal L 335, 31.12.1993). The scope of the amending Regulation includes the completion of customs formalities using data-processing techniques, invalidation of customs declarations, administrative simplification where the use and/or destination of the goods has to be checked, the situation regarding abandoned, seized or confiscated goods, the information to be provided in declarations for the customs warehousing procedure and securities under the transit procedure.</p> <p>This Regulation was amended for a second time by Commission Regulation (EC) No 655/94 of 24 March 1994, which makes operations carried out under the economic outward processing arrangements for textiles clearly identifiable on customs declarations (Official Journal L 82, 25.3.1994).</p> <p>It was amended a third time by Council Regulation (EC) No 1500/94 of 21 June 1994 with a view to ensuring, for commercial-policy purposes, that the Community has comprehensive statistics on the volume of trade in goods benefiting from preferential tariff measures (Official Journal L 162, 30.6.1994).</p>

## 1. CONTROL OF GOODS

### 1.11. Statistics relating to the trading of goods between Member States

- (1) Objective* To establish a system for collecting the data required for compiling statistics on the trading of goods between Member States which relies directly on the consigners and consignees of goods and no longer involves checks at the internal frontiers.
- (2) Community measures* Council Regulation (EEC) No 3330/91 of 7 November 1991 on the statistics relating to the trading of goods between Member States.
- (3) Contents*
1. This Regulation is to apply during the transitional period from 1 January 1993 until the change-over to a unified system of taxation in the Member State of origin.
  2. Definitions of the concepts of 'trading of goods between Member States', 'goods', 'Community goods', 'non-Community goods', 'statistical territory of a Member State', 'goods in free movement on the internal market of the Community', etc.
  3. Definitions of the general scope of statistics on the trading of goods between Member States and of the general scope of each type of statistics (transit, storage, trade) in relation to the others.
  4. Provisions relating to exemption from statistical obligations.
  5. Provisions relating to a statistical collection system (Intrastat). Conditions under which this system applies in the Member States, and to particular goods and statistics. The collection of data relating to goods to which the Intrastat system does not apply will be laid down by the Commission.
  6. Provisions relating to the party responsible for providing the information required by the Intrastat system. General definition of that party and conditions for transferring the task of providing the information.
  7. Provisions relating to the compilation and updating in the Member States of registers of intra-Community operators for the Intrastat system by the departments in the Member States which are responsible for compiling statistics on the trading of goods between Member States.
  8. Provisions relating to the assistance to be given by the tax authorities in a Member State to the departments responsible in that Member State for compiling statistics on the trading of goods between Member States.
  9. Series of provisions under the Intrastat system concerning the statistical data media, the transmission of data by the parties responsible to the relevant national departments by means of periodical declarations, the responsibilities of the Member States as regards penalties, the periodic surveys to be organized by the Commission and the Commission's report to the European Parliament and the Council on the functioning of the Intrastat system.
  10. Amongst the statistics relating to the trading of goods, priority has been given to regulating statistics on trade between Member States. Definitions of the subject matter of these statistics, of the Member States of dispatch and arrival, and of the application of the Intrastat system to these statistics. Provisions relating to the classification of goods, i.e. the Combined Nomenclature, and of countries. Fixing of the list of data items to be recorded in the statistical declaration and

definitions of those items. Provisions relating to the compilation of such statistics, the transmission of data by Member States, confidential data and possible simplification of the statistical information.

11. Definitions of the various statistical thresholds (exclusion, assimilation and simplification thresholds) allowing reliable results to be obtained despite a considerable reduction in the burden on those responsible for supplying statistical information; the main rules of application to be followed by the Member States and the responsibilities of the Commission, particularly with regard to fixing the quality criteria to be met by the results compiled by the Member States.

12. Establishment of a Management Committee on the Statistics Relating to the Trading of Goods between Member States, comprising Member States' representatives and chaired by a Commission representative.

13. Final provisions relating to transit and storage statistics, to the conditions governing the confidential nature of statistical data and special movements of goods. Furthermore, the Commission will be responsible for simplified procedures and will promote the use of automatic processing and electronic data transmission.

14. In order to take account of their individual administrative arrangements, Member States may establish simplified procedures differing from those laid down by the Commission, provided that those responsible for providing information are free to choose which procedures they will use. Member States exercising this option shall inform the Commission accordingly.

*(4) Deadline for implementation of the legislation in the Member States*

*(5) Date of entry into force (if different from the above)* — 19.11.1991  
— 1.1.1993: Articles 1 to 9, Article 11, Article 13 (1), Articles 14 to 27.

*(6) References*

Official Journal L 316, 16.11.1991

*(7) Follow-up work*

*(8) Commission implementing measures*

— Regulation (EEC) No 2256/92 — Official Journal L 219, 4.8.1992  
Commission Regulation of 31 July 1992 on statistical thresholds for the statistics on trade between Member States.

This Regulation lays down the rules which the Member States must follow for fixing statistical thresholds. The function of these thresholds is to suspend or reduce the obligations of parties responsible for providing information. They apply in the light of the quality requirements and the possibilities for lightening the statistical burden laid down by this Regulation.

— Regulation (EEC) No 3046/92 — Official Journal L 307, 23.10.1992  
Commission Regulation of 22 October 1992 laying down provisions for implementing Council Regulation (EEC) No 3330/91 on the statistics relating to the trading of goods between Member States.

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This Regulation defines the field of application of the Intrastat system. It lays down the obligations of intra-Community operators and specifies procedural rules and certain provisions relating to information.

— Commission Regulation of 11 December 1992 concerning the statistical information media for statistics on trade between Member States.

This Regulation sets up the statistical information media required by the Intrastat system created by Regulation (EEC) No 3330/91. There are three Intrastat forms, each of which covers all the information to be declared by a particular category of parties responsible for providing information. In addition, specific instructions are given concerning magnetic media, the voluntary use of the Single Administrative Document and the forms set up by the Member States.



## 1. CONTROL OF GOODS

### 1.12. Transit statistics and storage statistics relating to the trading of goods between Member States

<i>(1) Objective</i>	To establish the framework in which the Member States are authorized to organize their statistical surveys on transit movements and movements into and out of warehouses in order to prevent the burden on the information respondents varying excessively from one Member State to another.
<i>(2) Community measures</i>	Council Regulation (EEC) No 854/93 of 5 April 1993 on transit statistics and storage statistics relating to the trading of goods between Member States.
<i>(3) Contents</i>	<p>1. The Regulation grants the Member States the option of collecting data on the intra-Community trading of goods in interrupted transit or moving into and out of customs warehouses.</p> <p>2. The person responsible for providing the statistical information is the person who draws up the administrative or commercial document designated by the Regulation as the statistical information medium. The Regulation also lists the data which the Member States may choose to include on the statistical information medium, both for transit statistics and for storage statistics.</p> <p>3. The statistical thresholds are defined as the limits below which respondents are not required to submit information. For transit statistics these thresholds are expressed in terms of gross mass: 50 kg in the case of air transport and 1 000 kg for other modes of transport. For storage statistics the thresholds are expressed in terms of value or mass: ECU 800 or 1 000 kg.</p> <p>4. The Committee on the Statistics Relating to the Trading of Goods between Member States, instituted by Regulation (EEC) No 3330/91 (summary 1.11), may examine any question relating to the implementation of this Regulation.</p>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	Not required.
<i>(5) Date of entry into force (if different from the above)</i>	Three days after the publication of the Official Journal.
<i>(6) References</i>	Official Journal L 90, 14.4.1993
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	

## 1. CONTROL OF GOODS

### 1.13. Narcotic drugs and psychotropic substances: external aspects

- (1) *Objective* To prevent substances lawfully traded between the Community and third countries from being diverted to the illicit manufacture of narcotic drugs and psychotropic substances.
- (2) *Community measures* Council Regulation (EEC) No 3677/90 of 13 December 1990 laying down measures to be taken to discourage the diversion of certain substances to the illicit manufacture of narcotic drugs and psychotropic substances.
- Council Regulation (EEC) No 900/92 of 31 March 1992 amending Regulation (EEC) No 3677/90 of 13 December 1990 laying down measures to be taken to discourage the diversion of certain substances to the illicit manufacture of narcotic drugs and psychotropic substances.
- (3) *Contents*
1. The import, export and transit of substances listed in the annex to the Regulation must be documented in such a way as to disclose the name of the substances, their quantity and weight and the name and address of the exporter, the importer, the distributor and the ultimate consignee. Records of such transactions must be kept by the operators concerned, who must be licensed and registered as such by the competent authorities.
  2. The Member States are responsible for establishing close cooperation between the operators and the competent authorities to enable the latter to prevent diversions from occurring. To this end, operators transmit to the competent authorities all relevant information and notify them of all export transactions involving scheduled substances. In addition, they must lodge an application for export authorization in respect of each operation with the competent authorities of the Member State in which the customs export formalities are to be completed at least 15 working days before any customs export declaration is lodged. Applications for authorization must contain full information concerning the transport arrangements, the name and address of all operators involved, and the nature, quantity and weight of the substance. The competent authorities must reach a decision within the said period.
  3. If there are grounds for suspecting that diversion might occur, export of the substance is forbidden by written order from the competent authorities.
  4. A similar procedure applies to third countries having requested the Commission to inform them of any shipment of substances to their territory. Third countries may also lodge applications for specific or open authorizations prior to the export of such substances. A similar procedure applies to third countries having concluded an agreement with the Community on the issuing of import permits. Specific procedures apply to countries identified as sensitive as regards the possible diversion of certain scheduled substances.
  5. The Member States are responsible for providing their respective competent authorities with the means to obtain information and conduct enquiries in order to prevent diversion from occurring. In the same way as the customs authorities, the competent authorities may,

where there are grounds for suspecting that diversion might occur, prohibit the import or export of the substances listed in the annex.

6. The principles of mutual assistance and confidentiality inform the work of the administrations of the Member States. It is the latter's responsibility to determine appropriate penalties for infringements. Each year the Member States communicate to the Commission the results of their monitoring measures, on the basis of which the Commission draws up an annual report to be submitted to the International Narcotics Control Board.

*(4) Deadline for implementation of the legislation in the Member States*

Not required.

*(5) Date of entry into force (if different from the above)*

— Council Regulation (EEC) No 3677/90 enters into force on 1 January 1991 and applies from 1 July 1991;

— Council Regulation (EEC) No 900/92 enters into force on 13 April 1992 and applies from 1 January 1993 (with the exception of Article 1(11), on the Commission's authority to represent the Community when adopting amendments to the UN Convention against illicit traffic in narcotic drugs and psychotropic substances which applies from 13 April 1992).

*(6) References*

Official Journal L 357, 20.12.1990  
Official Journal L 96, 10.4.1992

*(7) Follow-up work*

*(8) Commission implementing measures*

Regulation (EEC) No 3769/92 — Official Journal L 383, 29.12.1992  
Commission Regulation of 21 December 1992 implementing and amending Council Regulation (EEC) No 3677/90 laying down measures to be taken to discourage the diversion of certain substances to the illicit manufacture of narcotic drugs and psychotropic substances. This Regulation was the object of a corrigendum published in Official Journal L 200, 10.8.1993.

Regulation (EEC) No 2959/93 — Official Journal L 267, 28.10.1993  
Commission Regulation of 27 October 1993 amending Regulation (EEC) No 3769/92 implementing and amending Council Regulation (EEC) No 3677/90 laying down measures to be taken to discourage the diversion of certain substances to the illicit manufacture of narcotic drugs and psychotropic substances, as amended by Regulation (EEC) No 900/92.

## 1. CONTROL OF GOODS

### 1.14. Narcotic drugs and psychotropic substances: internal aspects

<i>(1) Objective</i>	To prevent the manufacture of narcotic drugs and psychotropic substances legitimately marketed in the Community from being diverted for illicit purposes.
<i>(2) Community measures</i>	Council Directive 92/109/EEC of 14 December 1992 on the manufacture and the placing on the market of certain substances used in the illicit manufacture of narcotic drugs and psychotropic substances.
<i>(3) Contents</i>	<ol style="list-style-type: none"><li>1. The Directive distinguishes two types of precursor: those with limited use for licit purposes, and those of essential importance for legitimate commercial use.</li><li>2. Definitions of 'scheduled substance', 'placing on the market', 'operator', 'UN Convention' and 'International Narcotics Control Board'.</li><li>3. The Directive lays down requirements in respect of documentation, records and labelling. It guarantees the competent authorities access to documents and records for verification purposes.</li><li>4. Member States must designate a competent authority in order to ensure proper application of the Directive. The Directive also requires intra-Community cooperation between the competent authorities.</li><li>5. Member States are to take all appropriate measures to encourage operators to notify the competent authorities of all unusual orders or transactions relating to scheduled substances which show that the substances which are to be placed on the market or manufactured are likely to be used in the illicit manufacture of narcotic drugs or psychotropic substances. Likewise, the Member States shall encourage all persons who suspect, from information obtained by reason of their professional duties, that scheduled substances which have been, or are about to be, placed on the market or manufactured are likely to be used for the illicit manufacture of narcotic drugs or psychotropic substances, to inform the competent authorities thereof.</li><li>6. With regard to the control measures, the Directive confers on the competent authorities powers of inspection, search and seizure. The competent authorities may prohibit the placing on the market or manufacture of scheduled substances if they believe that these substances are ultimately destined for the illegal manufacture of narcotic drugs or psychotropic substances.</li><li>7. An annual report drawn up by the Commission will be submitted to the International Narcotics Control Board. The report will provide information on the amounts of scheduled substances seized; the methods of diversion and illicit manufacture; any substances identified as having been used in illicit manufacture of narcotic drugs or psychotropic substances; the nature and origin of processing equipment seized.</li></ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	1.7.1993



(5) *Date of entry into force (if different from the above)* — 1.7.1993  
— 1.1.1993: for certain measures

(6) *References*

Official Journal L 370, 19.12.1992

(7) *Follow-up work*

(8) *Commission implementing measures*

Directive 93/46/EEC — Official Journal L 159, 1.7.1993

Commission Directive of 22 June 1993 replacing and amending the annexes to Directive 92/109/EEC on the manufacture and the placing on the market of certain substances used in the illicit manufacture of narcotic drugs and psychotropic substances.

The aim of this Directive is to give effect to the decision of the United Nations Drugs Commission to add three substances, namely safrol, piperonal and isosafrol, to the annexes to Directive 92/109/EEC so as to make it possible to exercise stricter controls on these substances.

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## 1. CONTROL OF GOODS

### 1.15. Vocational training of customs officials

<i>(1) Objective</i>	To implement a training programme for customs officials with a view to ensuring uniform application of customs legislations at the Community's external border.
<i>(2) Community measures</i>	Council Decision 91/341/EEC of 20 June 1991 adopting a Community action programme on vocational training of customs officials (Matthaeus programme).
<i>(3) Contents</i>	<ol style="list-style-type: none"><li>1. The Decision provides for the setting-up of the 'Matthaeus' action programme on vocational training of customs officers working in national administrations.</li><li>2. The Decision defines the terms 'exchange official', 'host service' and 'donor service'.</li><li>3. The Decision identifies the objectives of the Matthaeus programme as being: to prepare as many customs officials as possible for the implications of the single market, in which each national administration will be working for the Community as a whole; to improve customs administration by means of greater mobility of customs personnel and intensive and ongoing cooperation between all the administrations in question.</li><li>4. The Matthaeus programme provides for the following types of training: exchanges of customs officials between national administrations; training seminars; common training programmes in customs schools and language courses.</li><li>5. The Member States must take the steps necessary to enable officials to be operational when called upon to carry out their duties in a customs office in another Member State.</li><li>6. The financial cost of the Matthaeus programme will be shared between the Member States and the Commission.</li><li>7. A management committee composed of representatives of the Member States, will assist the Commission in carrying out the programme.</li><li>8. At the beginning of each year the Commission will present an annual report on the implementation of the programme for the previous year to Parliament and to the Council (see point (8) — Commission implementing measures).</li><li>9. Provisions concerning exchanges of officials, training seminars and the implementation of common programmes in customs schools are contained in the three annexes.</li></ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	1.1.1991
<i>(5) Date of entry into force (if different from the above)</i>	
<i>(6) References</i>	Official Journal L 187, 13.7.1991

*(7) Follow-up work*

On 15 December 1993 the Commission presented the draft report on the experience gained in the application of the Matthaeus programme (COM(93) 661 final).

The report finds that the first few years of the implementation of the Matthaeus programme saw the achievement of the objectives set by Council Decision 91/341/EEC with regard to the establishment of the structures and activities constituting the basis of a common project to train Community customs officials. The emergence of a Community dynamic in the field has enabled staff to be prepared in the best possible conditions for the opening of the internal market.

On this basis, the Commission intends to develop common training activities aimed at fostering the emergence of a genuinely modern customs service attuned to the management needs of the internal market by strengthening the links between the training policy and operational priorities of customs administrations, by improving the follow-up to projects in order to enhance their operational impact and, lastly, by reinforcing synergies between different projects with a view to increasing overall effectiveness.

In conclusion, the object is to set up an active Community training network, founded on greater cooperation between the Member States' training centres in the interests of a common training policy aimed at guaranteeing the best possible management of the customs union in the context of the single market.

*(8) Commission implementing measures*

— Decision 92/39/EEC — Official Journal L 16, 23.1.1992

Commission Decision of 13 December 1991 establishing a number of implementing measures for the Council Decision of 20 June 1991 adopting a Community action programme on vocational training of customs officers working in national administrations (Matthaeus programme).

The Decision is designed to ensure that Community law is applied in a uniform manner at the Community's external frontiers, by providing customs officers from the different Member States with the same preliminary training, which will encourage them to recognize the increasingly Community-oriented nature of their work.

— On 15 April 1992 the Commission presented a report to Parliament and the Council on the first year of the Matthaeus programme's implementation (SEC(92) 887 final).

— On 11 December 1992 the Commission adopted a Decision laying down implementing provisions for Decision 91/341/EEC adopting a Community action programme on vocational training of customs officials (Matthaeus programme).

This Decision lays down implementing provisions in respect of the organization of exchanges of officials and seminars and relating to financial procedures for payment by the Commission of costs related to such exchanges and seminars.

— Decision 93/15/EEC — Official Journal L 10, 16.1.1993

Commission Decision of 16 December 1992 establishing specific common programmes for the vocational training of customs officials, with regard to inward processing, temporary admission and transit (Matthaeus programme).

This Decision lays down implementing provisions in respect of specific common training programmes for experienced officials on inward processing, temporary importation and transit procedures.

## 1. CONTROL OF GOODS

### 1.16. Vocational training of tax officials

<i>(1) Objective</i>	To organize a system of vocational training for tax officials at Community level in order to counter effectively the risks of tax fraud following the abolition of the internal frontiers.
<i>(2) Community measures</i>	Council Decision 93/588/EEC of 29 October 1993 on the adoption of a programme of Community action on the subject of the vocational training of indirect taxation officials (Matthaeus Tax).
<i>(3) Contents</i>	<ol style="list-style-type: none"><li>1. Cooperation between indirect tax administrations must be stimulated in order to avoid the risks of tax fraud following the abolition of controls at internal frontiers since the establishment of the single market.</li><li>2. Such cooperation can only be achieved by a better mutual understanding of the organization, methods and procedures applied in the different Member States, which means that indirect tax officials must be given suitable vocational training.</li><li>3. In order to achieve this objective, the Decision provides for an action programme involving:<ul style="list-style-type: none"><li>— the exchange of indirect taxation officials between national administrations;</li><li>— training seminars for officials;</li><li>— common training programmes which would be prepared in the Member States' training schools;</li><li>— language courses organized in the Member States to permit officials to make the most of time spent in another Member State's administration.</li></ul></li><li>4. An official on an exchange in another Member State will take part in the day-to-day work of the host tax administration, be bound by the same rules of professional secrecy as national officials and share the same civil liability.</li><li>5. The Community will cover the travel and subsistence expenses connected with seminars and those associated with the exchange of officials between national administrations. The Member States will bear the costs of language training for their officials.</li><li>6. The programme starts on 1 July 1993 and will run for four years.</li></ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	Not required.
<i>(5) Date of entry into force (if different from the above)</i>	1.7.1993
<i>(6) References</i>	Official Journal L 280, 13.11.1993
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	



## 1. CONTROL OF GOODS

### 1.17. Customs agents

<i>(1) Objective</i>	To assist those geographical areas most affected by the abolition of frontiers.
<i>(2) Community measures</i>	Council Regulation (EEC) No 3904/92 of 17 December 1992 on measures to adapt the profession of customs agent to the internal market.
<i>(3) Contents</i>	<p>1. Various Community accompanying measures are envisaged. Apart from measures under the European Social Fund and the Interreg initiative, measures outside the Structural Funds will also provide aid and will involve:</p> <ul style="list-style-type: none"> <li>— measures to assist the most affected geographical areas particularly through the provision of development advice and the creation of new economic activities;</li> <li>— measures to assist the most affected companies which will take the form of contributions to manage company restructuring, market research, technology transfer and the part-financing of investments in company conversion or diversification.</li> </ul> <p>2. The measures may be carried out in all the most affected regions of the Community, including those already eligible under the structural Funds and will be in addition to such Funds.</p> <p>3. Community participation will amount to 50% of the cost, or a maximum of 75% for measures involving project financing, refunds or the payments of additional subsidies to public or private intermediaries designated by the Member States for all measures undertaken from 1 January 1993 onwards. Measures such as technical assistance, evaluation and monitoring may be financed up to 100%.</p> <p>4. Applications for assistance must be submitted by 31 March 1993 at the latest and will be approved by the Commission within three months following their submission.</p> <p>5. The Commission and the Member States will cooperate closely in carrying out the measures. The Member States will be responsible for their monitoring, evaluation and control.</p> <p>6. The Commission will decide on the budget commitments and may advance up to 50% subsequent to a decision approving the commitment. The payment application must be made by 30 June 1995 at the latest. Payment will be made in ecus.</p>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	Not required.
<i>(5) Date of entry into force (if different from the above)</i>	1.1.1993 until 1.1.1994
<i>(6) References</i>	Official Journal L 394, 31.12.1992

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*(7) Follow-up work*

*(8) Commission  
implementing  
measures*

Commission Decision of 21 December 1993 on a contribution from the European Community to the cost of appropriate projects carried out in Italy and Greece under Regulation (EEC) No 3904/92 on measures to adapt the profession of customs agents to the internal market.

## 1. CONTROL OF GOODS

### 1.18. Export of cultural goods

<i>(1) Objective</i>	Harmonized export controls for cultural goods at the Community's external frontiers.
<i>(2) Community measures</i>	Council Regulation (EEC) No 3911/92 of 9 December 1992 on the export of cultural goods.
<i>(3) Contents</i>	<p>1. The Regulation applies to cultural goods belonging to one of the categories given in the annex, and in particular the products of archaeological excavations and items from artistic, historical or religious monuments or archaeological sites which have been dismantled.</p> <p>2. The export of cultural goods is subject to the presentation of an export licence which is valid throughout the Community. A licence may be refused if the goods in question fall into the category of national treasures covered by national legislation.</p> <p>3. These licences will be examined by customs officials during the course of the export formalities.</p> <p>4. Member States may, where necessary, restrict the number of customs offices competent to process exports of cultural goods.</p> <p>5. The Regulation provides for mutual assistance between the administrative authorities of the Member States and between the latter and the Commission.</p> <p>6. A Cultural Goods Committee composed of representatives of the Member States and chaired by the Commission will be set up to advise the Commission on proposed measures.</p>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	Not applicable.
<i>(5) Date of entry into force (if different from the above)</i>	1.4.1993
<i>(6) References</i>	Official Journal L 395, 31.12.1992
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	<p>Regulation (EEC) No 752/93 — Official Journal L 77, 31.3.1993</p> <p>Commission Regulation of 30 March 1993 laying down implementing provisions for Council Regulation (EEC) No 3911/92 on the export of cultural goods.</p> <p>The Regulation lays down the principle of prior export licensing of certain categories of cultural goods defined in the annex to the above-mentioned Regulation. It defines the form provided for the purpose, how it is used and the period of validity of the export licence.</p>

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## 1. CONTROL OF GOODS

### 1.19. Return of cultural objects unlawfully removed from the territory of a Member State

*(1) Objective*

To secure the return of national treasures of artistic, historic or archaeological value that have been unlawfully removed from the territory of a Member State once controls have been abolished at internal frontiers.

*(2) Community measures*

Council Directive 93/7/EEC of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State.

*(3) Contents*

1. The purpose of the Directive is to ensure the return of cultural objects classed, before or after their unlawful removal from the territory of a Member State, as 'national treasures possessing artistic, historic or archaeological value' by national law or regulation in accordance with Article 36 of the EEC Treaty. These national treasures are not returnable unless they fall within one of the categories listed in the annex or, although not falling within these categories, form an integral part of public collections recorded in the inventories of museums, archives or libraries or those of church bodies. The Directive applies where such objects have been removed from the territory of a Member State unlawfully, i.e. in breach of the rules in force there or of the conditions under which temporary authorization was granted.
2. The Member States may broaden the scope of the return system to national treasures that do not belong to the any of the categories given in the annex and/or which have been unlawfully removed from the territory of a Member State before 1 January 1993.
3. Member States must return unlawfully exported cultural objects irrespective of whether they have been moved within the Community or first exported to a non-member country and then re-imported.
4. Member States' central authorities are required to coordinate measures for the return of cultural objects which have been unlawfully removed from the territory of a Member State.
5. Only the courts of the Member State where the cultural object is found will have the authority to order its return to the requesting Member State if the possessor or holder should refuse to release the object.
6. Only a Member State may initiate proceedings with the aim of securing the return of a cultural object. Private owners of cultural objects may only bring proceedings provided for under ordinary law.
7. Return proceedings may not be brought more than one year after the requesting Member State becomes aware of the location of the cultural object and the identity of its possessor or holder.
8. Such proceedings may in any case not be brought more than 75 years after the object is unlawfully removed from the territory of the requesting Member State, except in the case of objects forming part of public collections or church property recognized as not being subject to a time-limit.
9. When the return of a cultural object is ordered, if the possessor proves that he exercised all due care when acquiring the object he is entitled to fair compensation.



10. The Member States will send the Commission a report every three years on the application of this Directive, starting in February 1996.

*(4) Deadline for implementation of the legislation in the Member States*

15.12.1993

15.3.1994: Belgium, Germany and the Netherlands

*(5) Date of entry into force (if different from the above)*

*(6) References*

Official Journal L 74, 27.3.1993

*(7) Follow-up work*

*(8) Commission implementing measures*

## 1. CONTROL OF GOODS

### 1.20. Release for free circulation of counterfeit goods

<i>(1) Objective</i>	To lay down the conditions under which customs authorities may act in cases where it is suspected that goods entered for release for free circulation are counterfeit goods and the measures to be taken.
<i>(2) Community measures</i>	Council Regulation (EEC) No 3842/86 of 1 December 1986 laying down measures to prohibit the release for free circulation of counterfeit goods.
<i>(3) Contents</i>	<ol style="list-style-type: none"><li>1. The Regulation deals with counterfeit goods bearing an unauthorized trade mark identical to a trade mark validly registered in the Member States where the goods are entered for free circulation, or cannot be distinguished in their essential aspects, thereby infringing the rights of the owner of the trade mark in question.</li><li>2. It does not apply to:<ul style="list-style-type: none"><li>— goods bearing a trade mark with the consent of the owner of that trade mark, but which are entered for free circulation without the owner's consent;</li><li>— goods contained in travellers' personal luggage (summary 1.8);</li><li>— small consignments of goods of a non-commercial nature.</li></ul></li><li>3. The Regulation prohibits the release for free circulation of goods found to be counterfeit goods.</li><li>4. Procedure to follow when requesting action by the customs authorities: the owner of the trade mark must provide all pertinent information and a detailed description of the goods. The authorities will then notify the trade mark owner of the action they intend to take and for what period.</li><li>5. If a customs office finds goods corresponding to the description of the counterfeit goods, it will suspend authorization for release and notify the parties concerned.</li><li>6. The Member States must ensure that the competent authorities destroy goods found to be counterfeit or dispose of them outside commercial channels. They must take every possible step to ensure that those responsible for their illicit import do not derive any economic benefit.</li><li>7. The trade mark owner may ask the authorities concerned to give the names and addresses of the consignor, the importer and the consignee of the goods, and the quantities involved.</li><li>8. Acceptance of an application does not entitle the trade mark owner to compensation if counterfeit goods slip through customs undetected.</li></ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	
<i>(5) Date of entry into force (if different from the above)</i>	1.1.1988
<i>(6) References</i>	Official Journal L 357, 18.12.1986

*(7) Follow-up work*

See summary 1.21.

*(8) Commission  
implementing  
measures*

Regulation (EEC) No 3077/87 — Official Journal L 291, 15.10.1987  
Commission Regulation of 14 October 1987 laying down provisions for  
the implementation of Council Regulation (EEC) No 3842/86 laying  
down measures to prohibit the release for free circulation of counterfeit  
goods.

## 1. CONTROL OF GOODS

### 1.21. Export and transit of counterfeit goods

<i>(1) Objective</i>	To make Community legislation on the combating of counterfeiting and piracy more effective by improving the system introduced on 1 January 1988 by Regulation (EEC) No 3842/86.
<i>(2) Proposal</i>	Proposal for a Council Regulation laying down measures to prohibit the release for free circulation, export or transit of counterfeit and pirated goods.
<i>(3) Contents</i>	<ol style="list-style-type: none"><li>1. International trade in counterfeit goods has mushroomed in the last few years. The aim of the proposed Regulation is to contain this trend by improving Regulation (EEC) No 3842/86 (summary 1.20).</li><li>2. The proposal simplifies the procedure to be used by the owner or holder of a trademark wishing to prevent the import, export or transit in the Community of counterfeit goods.</li><li>3. It allows the owner or holder to apply directly to the relevant customs authority to have the release (authorization for free circulation or export) of goods suspected of being counterfeit refused or to have such goods seized while under a transit procedure.</li><li>4. If the customs authority decides to grant the application, the relevant customs offices will seize the goods on entry into the Community.</li><li>5. The applicant then has 10 days to consult the relevant legal authority for a substantive decision. If no application is made within this period and no interim measures have been taken, the goods will be released by the customs office in question. If goods are found to be of an illegal nature, a whole range of penalties may be imposed including their destruction.</li><li>6. The proposal also introduces the following changes:<ul style="list-style-type: none"><li>— it extends its scope to trademark symbols (logos) presented separately, to packaging bearing trademarks and tools, moulds or material used in the manufacture of a counterfeit good;</li><li>— extends the ban to export and transit;</li><li>— allows the applicant and the importer to inspect the goods whose release has been suspended.</li></ul></li><li>7. The proposed Regulation does not apply to non-commercial goods carried by travellers in their personal luggage within the limits laid down in respect of relief from customs duty.</li></ol>
<i>(4) Opinion of the European Parliament</i>	Parliament approved the Commission's proposal subject to amendments defining the concept of transit.
<i>(5) Current status of the proposal</i>	<p>Co-decision procedure</p> <p>The Commission presented the proposal on 13 July 1993.</p> <p>First reading: On 9 February 1994 Parliament approved the Commission proposal subject to amendments. The Commission has accepted some of the amendments.</p> <p>The Commission presented an amended proposal on 18 February 1994.</p> <p>On 16 June 1994 the Council reached unanimous agreement on this proposal on which Parliament will be reconsulted.</p>



Since the proposal's legal basis has changed (from Article 113 to Articles 113 and 100A), it now comes under the co-decision procedure.

*(6) References*

Commission proposal COM(93) 329 final	Official Journal C 238, 2.9.1993
Amended proposal COM(94) 43 final	Official Journal C 86, 23.3.1994
European Parliament opinion First reading	Official Journal C 61, 28.2.1994
Economic and Social Committee opinion	Official Journal C 52, 19.2.1994

## 1. CONTROL OF GOODS

### 1.22. Waste: transfer of radioactive waste: supervision and control

<i>(1) Objective</i>	To lay down a system of prior authorization for all movements of radioactive waste in order to increase protection against the dangers arising from ionizing radiation.
<i>(2) Community measures</i>	Council Directive 92/3/Euratom of 3 February 1992 regarding the supervision and control of transfers of radioactive waste between Member States coming in and out of the Community.
<i>(3) Contents</i>	<ol style="list-style-type: none"><li>1. The Directive applies to shipments of radioactive waste between Member States and shipments entering and/or leaving the Community. It does not cover the shipment of a sealed source which is returned to the supplier of the source by its user. However, this exemption does not apply to sealed sources containing fissile material.</li><li>2. It provides for a common, mandatory system of notification and a uniform control document for the transfer of radioactive waste.</li><li>3. The proposed system covers all transfers of radioactive waste within the Community, including transfers within a Member State and the importation and exportation of radioactive waste.</li><li>4. The system applies to all shipments of radioactive waste between Member States and into and out of the Community.</li><li>5. For each shipment of radioactive waste the holder must submit an application to the competent authorities of the country of origin. Where a shipment is made from a Member State to a third country, the competent authorities of the Member State of origin must inform the competent authorities of the country of destination.</li><li>6. The Directive lays down that the competent authorities may not authorize a transfer unless there is sufficient proof that the recipient of the radioactive waste is technically able to manage the waste in a suitable manner.</li><li>7. The Directive states that any conditions laid down by the competent authorities in respect of the shipment of radioactive waste within the Community may not be more stringent than those laid down by the national law of a Member State in respect of the shipment of radioactive waste on its territory.</li><li>8. The system also contains several features of the Basle Convention of 22 March 1989 on the control of transboundary movements of hazardous waste and its disposal.</li><li>9. Provision is made for radioactive waste shipments which do not comply with this Directive to be returned to the holder.</li><li>10. The Commission must prepare a summary report on the implementation of this Directive for the Council, the European Parliament and the Economic and Social Committee after 31 January 1994.</li></ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	1.1.1994



*(5) Date of entry into force (if different from the above)*

*(6) References*

Official Journal L 35, 12.2.1992

*(7) Follow-up work*

*(8) Commission implementing measures*

Decision 93/552/Euratom — Official Journal L 268, 29.10.1993  
Commission Decision of 1 October 1993 establishing the standard document for the supervision and control of shipments of radioactive waste referred to in Council Directive 92/3/Euratom.  
The Decision specifies the standard document which must accompany all shipments between Member States or into and out of the Community and covers all the cases envisaged in Council Directive 92/3/Euratom.

## 1. CONTROL OF GOODS

### 1.23. Waste: supervision and control of the transfrontier shipment of hazardous waste

<i>(1) Objective</i>	To remove differences between Member States' procedures for the supervision and control within the Community of the transfrontier shipment of hazardous waste. To establish a prior notification system for all movements of hazardous waste.
<i>(2) Community measures</i>	Council Directive 86/279/EEC of 12 June 1986 amending Directive 84/631/EEC on the supervision and control within the European Community of the transfrontier shipment of hazardous waste.
<i>(3) Contents</i>	<ol style="list-style-type: none"><li>1. Transfrontier shipments of hazardous waste, whether within the European Community or into/out of the Community, must be notified by the holder of the waste concerned. This notification must be addressed either to the competent authorities of the Member State of destination (in the case of intra-Community shipments) or to the competent authorities of the Member State of dispatch (in the case of shipment from a Member State to a third country) or to the competent authorities of the last Member State through which the shipment is due to pass (in the case of waste from a third country in transit through the Community). Where waste is being exported from the Community, prior agreement must be obtained from the third State of destination.</li><li>2. Shipments must be notified by means of a uniform consignment note.</li><li>3. The holder of the waste may use a general notification procedure where waste having the same characteristics is shipped regularly to the same consignee.</li><li>4. Transfrontier shipment may not be carried out until the competent authorities have acknowledged receipt of the notification.</li><li>5. Under this Directive, the competent authorities may not lay down more stringent conditions for the intra-Community shipment of hazardous waste than those laid down in national law in respect of similar shipments effected wholly within the Member State in question.</li></ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	1.1.1987
<i>(5) Date of entry into force (if different from the above)</i>	
<i>(6) References</i>	Official Journal L 181, 4.7.1986
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	

## 1. CONTROL OF GOODS

### 1.24. Waste: supervision and control of transfrontier shipments of waste

- (1) *Objective* To establish a system of supervision and control of all movements of waste.
- (2) *Community measures* Council Regulation (EEC) No 259/93 of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community.
- (3) *Contents*
1. The Regulation applies to shipments of waste, both within and into or out of the European Community, to waste transported between Member States but routed through one or more third countries, and to waste transported between third countries but routed through one or more Member States.
  2. The Regulation concerns the application by the Member States of a system of prior authorization for the shipment of waste.
  3. It provides for a common, compulsory notification system and for a standard consignment note for shipments of waste.
  4. The notifier (the original producer, the holder or the person designated by the laws of the State of dispatch in the case of waste imported into or in transit within or through the Community) must apply for authorization to the competent authorities of destination and send a copy of the application to the authorities of despatch, transit or destination.
  5. The notifier must make a contract with the consignee for the disposal of the waste. The contract must oblige:
    - the notifier to take the waste back if the shipment has not been completed or if it has been affected in violation of this Regulation;
    - the consignee to provide a certificate to the notifier that the waste has been disposed of in an environmentally sound manner.
  6. The shipment may not be made until the competent authority of destination has granted authorization to the notifier.
  7. Where waste is exported from a Member State to a third State, the notifier must apply for authorization to the competent authority of dispatch.
  8. Waste may not be shipped to a third State until the competent authorities of destination or dispatch have acknowledged receipt of the application for authorization of the shipment.
  9. Waste which does not comply with the provisions of this Regulation regarding its shipment must be returnable to the notifier or, if this is not possible, otherwise disposed of or recovered in an environmentally sound manner.
  10. All shipments out of the Community of waste intended for disposal are prohibited, except to EFTA countries which are parties to the Basle Convention. All shipments out of the Community of wastes intended for recovery are prohibited, except those directed to OECD countries which are parties to the Basle Convention or to third countries which are parties to the Basle Convention and which have concluded a bilateral agreement with the Community or with a Member State.
  11. All exports of waste to ACP States are prohibited.

12. Imports into the Community of waste for disposal are prohibited except imports from countries which are parties to the Basle Convention or countries with which the Community (or a Member State) has concluded bilateral agreements.

13. Imports from a non-EFTA country are permitted only on the basis of an application from the exporting country stating that it does not have the capacity to dispose of the waste in an environmentally sound manner.

14. Imports of waste for recovery into the Community are prohibited except those from countries to which the OECD decision applies, countries which are parties to the Basle Convention or countries with which the Community (or a Member State) has concluded bilateral agreements.

15. In the case of transit through the Community of waste originating outside the Community and for disposal or recovery outside the Community, the transit must be notified to the last competent authority of transit within the Community.

16. In the case of transit of waste for recovery from a country to which the OECD decision applies and to such a country, the notification must be sent to all of the competent authorities of transit in the Member State(s) concerned.

17. Member States must take the necessary steps to inspect, sample and monitor waste shipments.

18. This Regulation repeals Council Directive 84/631/EEC (Official Journal L 326, 3.12.1984).

*(4) Deadline for implementation of the legislation in the Member States*

Not required.

*(5) Date of entry into force (if different from the above)*

9.2.1993

*(6) References*

Official Journal L 30, 6.2.1993

*(7) Follow-up work*

*(8) Commission implementing measures*

## 1. CONTROL OF GOODS

### 1.25. Specimens of species of wild flora and fauna

- (1) *Objective* To improve and tighten up implementation in the Community of the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES).
- (2) *Proposal* Proposal for a Council Regulation (EEC) laying down provisions with regard to possession of and trade in specimens of species of wild flora and fauna.
- (3) *Contents*
1. This Regulation applies to internal and external trade in and the possession of specimens of the species of wild flora and fauna listed in the annex to the Regulation. It repeals and replaces Council Regulation (EEC) No 3626/82 (Official Journal L 384, 31.12.1982), which was found to contain a number of administrative and technical deficiencies.
  2. Definitions of 'committee', 'convention', 'country of origin', etc.
  3. Introduction into the Community, from a third country or from the sea, of specimens of the species listed in Annex A is subject to prior presentation of an import permit at the customs office at which the customs formalities are completed. This import permit must be issued by a management authority in the same Member State as the place of destination of the specimens.
  4. Similarly, export and re-export from the Community is subject to prior presentation of an export permit or re-export certificate.
  5. No permit or certificate is required for specimens which will transit through the Community, subject to certain conditions (in particular, the specimen must have been exported or re-exported from a country which is a signatory to the Convention).
  6. The permits and certificates are valid throughout the Community. However, Member States may reject an application for a permit or certificate in certain cases. They must inform the Commission immediately, giving details of the reasons for rejection. The Commission will set the charge to be levied by the Member States for processing any application for a permit or a certificate.
  7. The permits and certificates presented at the customs offices will be returned to the management authority of the Member State in which the offices are situated, which will subsequently return them to the management authorities which issued them.
  8. Prohibitions relating to internal trade and to specimens of endangered species. For example, possession of any specimen of a species listed in Annex A is prohibited except where proof can be provided that it was acquired in conformity with the legislation in force. The Commission may place restrictions on the possession of specimens of critically endangered species.
  9. The Member States must designate and notify the Commission of the customs offices responsible for the various procedures provided for by the Regulation and of the names and addresses of the management authorities, scientific authorities and other authorities empowered to grant permits or certificates.
  10. The Member States and the Commission must also provide each other with the information needed in order to implement this Regulation.

*(4) Opinion of the European Parliament*

First reading: Parliament approved the Commission's proposal subject to several amendments, designed to reinforce certain provisions and, in particular, to introduce penalties for any person convicted in a court for infringement of the provisions on the import, export and re-export of, and intra-Community trade in specimens of the species protected by the Convention. Parliament also requested the inclusion of certain species of tropical timber in the annexes to the Regulation.

*(5) Current status of the proposal*

Co-decision procedure

The Commission presented the proposal on 6 December 1991.

First reading: On 22 June 1993 Parliament approved the Commission proposal subject to amendments. The Commission has accepted some of the amendments.

The Commission presented an amended proposal on 21 January 1994.

The amended proposal is currently before the Council for a common position.

*(6) References*

Commission proposal COM(91) 448 final	Official Journal C 26, 3.2.1992
Amended proposal COM(93) 599 final	Official Journal C 131, 12.5.1994
European Parliament opinion First reading	Official Journal C 194, 19.7.1993
Economic and Social Committee opinion	Official Journal C 223, 31.8.1992



## 1. CONTROL OF GOODS

### 1.26. Approval of explosives intended for civilian use

<i>(1) Objective</i>	To harmonize the laws of the Member States relating to explosives, their movement and their inspection.
<i>(2) Community measures</i>	Council Directive 93/15/EEC of 5 April 1993 on the inspection, marketing and mutual recognition of approvals of explosives for civilian use.
<i>(3) Contents</i>	<p>1. The Directive defines explosives by reference to the 'United Nations Recommendations on the transport of dangerous goods' as published by the United Nations ('Orange book'). The Directive does not apply to explosives for military or police use or to pyrotechnical articles. Specific arrangements are laid down for munitions.</p> <p>2. In order to be able to be placed on the market explosives must, by the end of a transitional period, comply with the essential safety requirements. Compliance will be verified by outside bodies.</p> <p>3. Where there is a presumption of compliance, the manufacturer may affix the EC mark to the product, which enables the product to be accepted throughout the Community.</p> <p>4. In view of the removal of physical checks at frontiers, the proposal introduces an alternative system of monitoring of all transfers of explosives conducted within the Community. Account is moreover taken of the instances where specific safety requirements are imposed. Where this is the case transfers must be covered by a prior authorization. Authorization by the recipient or transit Member State takes the form of a document accompanying the explosive to its final destination.</p> <p>5. Member States shall, before 31 December 1992, set up information-exchange networks in order to implement the Directive. They will keep a register of all companies involved in the explosives sector holding an approval or authorization and shall specify the sanctions to be applied in the event of non-compliance with the Directives.</p>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	<p>— 30.6.1994</p> <p>— 30.9.1993 for Articles 9 to 14</p>
<i>(5) Date of entry into force (if different from the above)</i>	1.1.1995
<i>(6) References</i>	Official Journal L 121, 15.5.1993
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	

## 1. CONTROL OF GOODS

### 1.27. Single market in agricultural products: common organization of the market: bananas

- (1) *Objective* To set up a common organization of the market to replace the different national arrangements in the banana market.
- (2) *Community measures* Council Regulation (EEC) No 404/93 of 13 February 1993 on the common organization of the banana market.
- (3) *Contents*
1. The common organization of the market covers the following products: fresh, dried, frozen and preserved bananas and all banana-based preparations.
  2. Common quality and marketing standards: after obtaining the opinion of a Management Committee for Bananas, the Commission will lay down quality and marketing standards, marketing stages, application measures and controls to ensure that these standards are complied with. Except in the case of derogations, products for which common standards have been laid down may be marketed within the Community only if they comply with these standards.
  3. Producers' organizations and concertation mechanisms: associations of producers or of producers' organizations as referred to in the Regulation may participate in the preparation of the measures provided for in operational programmes under Community support frameworks. Such operational programmes define the measures to be undertaken in the banana sector to achieve at least two of the following objectives:
    - a quality and commercial strategy for the products of a given area in the light of likely developments in costs and markets;
    - improved utilization of resources while respecting the environment;
    - greater competitiveness.
  4. Aid scheme: compensation for any loss of income is in principle granted only to Community producers (of fresh bananas) who are members of an organization. The maximum quantity of bananas produced in the Community and marketed for which compensation may be paid is fixed at 854 000 tonnes, broken down by producer regions (Canaries, Guadeloupe, Martinique, Madeira and Crete, Algarve and Lakonia). Compensation is calculated on the basis of the difference between the 'flat-rate reference income' for bananas produced and marketed within the Community, established on the basis of data for a period prior to 1993, and the 'average production income' obtained on the Community market during the year in question for bananas produced and marketed within the Community. The Regulation specifies the method for calculating the 'flat-rate reference income' and the 'average production income'. A single premium, fixed at ECU 1 000 per hectare, is granted to producers in the Community who cease to produce bananas.
  5. Trade with third countries: each year a forecast supply balance is prepared of production and consumption of bananas in the Community and of imports and exports. Any importation of bananas into the Community is subject to the submission of an import licence issued by the Member States. Each year a quota of 2 million tonnes is opened for imports of 'third-country' bananas (bananas from non-ACP third countries) and 'non-traditional ACP' bananas (bananas exported by the

ACP States which exceed the traditional quantities of bananas from ACP States fixed by the Regulation and non-traditional bananas from ACP States). Within the framework of the tariff quota, imports of 'third-country' bananas are subject to a levy of ECU 100 per tonne and imports of bananas classed as 'non-traditional imports from ACP States' are subject to a zero duty. Apart from the quota, imports are subject to a levy which is sufficiently high to ensure that Community production and traditional ACP quantities are disposed of. Outside the quota, therefore, imports of 'third-country' bananas are subject to a levy of ECU 850 per tonne and imports of 'non-traditional ACP bananas' are subject to a levy of ECU 750 per tonne. The tariff quota will be open to the following categories of operator: 66.5% for operators established in the Community who marketed third country and/or non-traditional ACP bananas, 30% for operators who marketed Community bananas (bananas produced in the Community) and/or 'traditional ACP' bananas, and 3.5% for operators who started marketing bananas other than 'Community' and/or 'traditional ACP' bananas from 1992.

6. Except where the Regulation provides otherwise, the provisions of the Treaty concerning State aids apply to the production of, and trade in, bananas and banana products.

*(4) Deadline for implementation of the legislation in the Member States*

Not required.

*(5) Date of entry into force (if different from the above)*

26.2.1993 but applicable from 1.7.1993.

*(6) References*

Official Journal L 47, 25.2.1993

*(7) Follow-up work*

*(8) Commission implementing measures*

— Commission Communication of 30 April 1993 to operators in the banana sector — Official Journal C 123, 5.5.1993

The operators are to contact the competent authorities and provide details of quantities marketed in the Community in 1989, 1990 and 1991, with an accurate breakdown of origin into non-ACP countries, ACP countries and the Community.

— Regulation (EEC) No 1442/93 — Official Journal L 142, 12.6.1993  
Commission Regulation of 10 June 1993 laying down detailed rules for the application of the arrangements for importing bananas into the Community.

This Regulation lays down detailed rules for the application of the arrangements for importing bananas within the tariff quota provided for in Articles 18 and 19 of Regulation (EEC) No 404/93 and outside that quota and the rules for traditional banana imports from the ACP States. This Regulation necessitated a corrigendum published in Official Journal L 153, 25.6.1993.

It was also amended by the following Regulations:

Regulation (EEC) No 2009/93 — Official Journal L 182, 24.7.1993  
Regulation (EEC) No 3026/93 — Official Journal L 270, 30.10.1993  
Regulation (EEC) No 3297/93 — Official Journal L 296, 1.12.1993  
Regulation (EC) No 790/94 — Official Journal L 87, 31.3.1994  
Regulation (EC) No 1299/94 — Official Journal L 141, 4.6.1994

— Regulation (EEC) No 1443/93 — Official Journal L 142, 12.6.1993  
Commission Regulation of 10 June 1993 on transitional measures for the application of the arrangements for importing bananas into the Community in 1993.

This Regulation was amended by the following Regulations:

Regulation (EEC) No 2009/93 — Official Journal L 182, 24.7.1993

Regulation (EEC) No 2164/93 — Official Journal L 194, 3.8.1993

Regulation (EEC) No 2569/93 — Official Journal L 235, 18.9.1993

Regulation (EEC) No 2642/93 — Official Journal L 242, 28.9.1993

— Regulation (EEC) No 1639/93 — Official Journal L 157, 29.6.1993

Commission Regulation of 28 June 1993 laying down detailed rules for the application of Regulation (EEC) No 404/93 as regards the cessation of banana cultivation.

This Regulation provides for a premium scheme for the cessation of banana production.

— Regulation (EEC) No 1662/93 — Official Journal L 158, 30.6.1993

Commission Regulation of 29 June 1993 laying down detailed rules for the application of Council Regulation (EEC) No 404/93 as regards the conditions for the application of protective measures in the banana sector.

— Regulation (EEC) No 1667/93 — Official Journal L 158, 30.6.1993

Commission Regulation of 29 June 1993 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff.

— Regulation (EEC) No 1858/93 — Official Journal L 170, 13.7.1993

Commission Regulation of 9 July 1993 laying down detailed rules for applying Council Regulation (EEC) No 404/93 as regards the aid scheme to compensate for loss of income from marketing in the banana sector.

Commission Regulation (EC) No 526/94 (Official Journal L 66, 10.3.1994) derogates from Article 4 of Regulation (EEC) No 1858/93.

This Regulation has been amended by Commission Regulation (EC) No 705/94 (Official Journal L 85, 30.3.1994).

— Regulation (EEC) No 2654/93 — Official Journal L 243, 29.9.1993

Commission Regulation of 28 September 1993 on additional traditional measures for the importation of bananas into the Community in 1993 under the Community tariff quota.

— Regulation (EC) No 3190/93 — Official Journal L 285, 20.11.1993

Commission Regulation of 19 November 1993 fixing the uniform reduction coefficient to be allocated to each operator in categories A and B in the context of the tariff quota 1994.

This Regulation is amended by Commission Regulation (EC) No 1258/94 (Official Journal L 137, 1.6.1994).

— Regulation (EC) No 3298/93 — Official Journal L 296, 1.12.1993

Commission Regulation of 30 November 1993 fixing indicative quantities for imports of bananas into the Community for the first quarter of 1994.

— Regulation (EC) No 3482/93 — Official Journal L 317, 18.12.1993

Commission Regulation of 17 December 1993 on the issuing of import licences for bananas in the context of the tariff quota for the first quarter of 1994.



- Regulation (EC) No 3483/93 — Official Journal L 317, 18.12.1993  
Commission Regulation of 17 December 1993 on the issuing of licences for traditional imports of bananas originating in the ACP States for the first quarter of 1994.
- Regulation (EC) No 490/94 — Official Journal L 62, 5.3.1994  
Commission Regulation of 4 March 1994 fixing indicative quantities for imports of bananas into the Community for the second quarter of 1994: 550 000 tonnes under the tariff quota, 30% of the total annual quantity for category A and B operators, 30% of the total annual quantity for imports of traditional ACP bananas.
- Regulation (EC) No 606/94 — Official Journal L 77, 19.3.1994  
Commission Regulation of 18 March 1994 on the issuing of licences for traditional imports of bananas originating in the ACP States for the second quarter of 1994.
- Regulation (EC) No 658/94 — Official Journal L 82, 25.3.1994  
Commission Regulation of 24 March 1994 fixing the compensatory aid for Community bananas marketed in the second half of 1993 and the advance for 1994.
- Regulation (EC) No 919/94 — Official Journal L 106, 27.4.1994  
Commission Regulation of 26 April 1994 laying down detailed rules for the application of Council Regulation (EEC) No 404/93 as regards banana producers' organizations.  
This Regulation sets out the requirements which producers' organizations must satisfy in order to obtain the specific recognition provided for in Article 5 of Regulation (EEC) No 404/93.
- Regulation (EC) No 1257/94 — Official Journal L 137, 1.6.1994  
Commission Regulation of 31 May 1994 fixing indicative quantities for imports of bananas into the Community for the third quarter of 1994.
- Commission Regulation of 27 June 1994 on the issuing of licences for traditional imports of bananas originating in the ACP States for the third quarter of 1994.

## 1. CONTROL OF GOODS

### 1.28. Single market in agricultural products: abolition of the monetary compensatory amounts mechanism

- (1) *Objective* To abolish from 1 January 1993 the need for frontier checks resulting from the existence of monetary compensatory amounts.
- (2) *Proposal* Proposal for a Council Regulation (EEC) on the value of the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy.
- (3) *Contents*
1. In anticipation of the completion of economic and monetary union (EMU), this Regulation is intended to define the conversion rate into national currencies to be used for agricultural prices and amounts expressed in ecus when the mechanism of monetary compensatory amounts is abandoned, this being incompatible with the absence of frontiers in the single market, together with the green ecu mechanism, which is incompatible with the CAP guidelines.
  2. The Regulation defines the terms 'legal instruments relating to the common agricultural policy', 'fixed currencies', 'representative market rate', 'agricultural conversion rate' and 'monetary gap'.
  3. In the legal instruments relating to the common agricultural policy and in the administrative documents drawn up by the Community and the Member States to implement them, the unit of account is the ecu.
  4. The agricultural conversion rate is fixed by the Commission as a function of the representative market rate in accordance with the provisions of the Regulation. A specific conversion rate more closely reflecting the economic circumstances may be defined in order to forestall risks of market distortion of monetary origin. The initial agricultural conversion rate is to be equal to the representative market rate for a significant period of the month preceding the date on which it takes effect.
  5. The Regulation lays down the circumstances under which a change in the agricultural conversion rate may be undertaken and the method of calculating the new rate. It also provides for the adjustment of the agricultural conversion rates in the event of a monetary realignment.
  6. The Regulation provides for the use of the representative market rate for the national currency of a third country to convert amounts expressed in ecus into the national currency of that third country, and vice versa. To avoid risks of market distortion of monetary origin the Commission may permit the use of conversion rates more closely reflecting the actual economic circumstances, in accordance with the rules laid down by the Regulation.
  7. The Regulation identifies the operative event for the agricultural conversion rate as the completion of customs import or export formalities in the case of amounts collected or granted in trade with third countries and the event whereby the economic objective of the operation is attained in all other cases. A specific operative event may be determined in cases and according to a procedure laid down by the Regulation.
  8. Compensatory aid may be granted to farmers by Member States affected by currency revaluations for products and in accordance with a calculation method defined in the Regulation. The Community will make a partial contribution to financing the compensatory aid and that

contribution is deemed to be intervention intended to stabilize the agricultural markets.

9. Appropriate safeguard clauses and measures derogating from the Regulation may be adopted by the Commission where unusual monetary practices are liable to upset the application of the legal instruments relating to the common agricultural policy.

10. The arrangements laid down in the Regulation are to be reviewed before 31 December 1996 to take account of the introduction of the parities fixed irrevocably under economic and monetary union.

*(4) Opinion of the European Parliament*

Not yet delivered.

*(5) Current status of the proposal*

Consultation procedure

The Commission presented the proposal on 8 July 1992.

The proposal is currently before Parliament for its opinion.

*(6) References*

Commission proposal  
COM(92) 275 final  
Economic and Social  
Committee opinion

Official Journal C 188, 25.7.1992

Not yet published

## 1. CONTROL OF GOODS

### 1.29. Single market in agricultural products: adaptation of transitional measures (Spain and Portugal)

<i>(1) Objective</i>	<p>To repeal or adapt the transitional measures applicable pursuant to the Act of Accession to Spanish and Portuguese agricultural products so as to overcome the problems posed by the completion of the single market on 1 January 1993.</p>
<i>(2) Proposal</i>	<p>Council Regulations of 28 December 1992 repealing or adapting transitional measures applicable to agricultural products pursuant to the Act of Accession of Spain with a view to the single market.</p> <p>Council Regulations of 17 March 1993 repealing or adapting transitional measures applicable to agricultural products pursuant to the Act of Accession of Portugal with a view to the single market.</p>
<i>(3) Contents</i>	<p>1. The abolition of internal frontier controls presents a particular problem for the transitional arrangements laid down for agricultural products by the Act of Accession of Spain and Portugal. The transitional provisions for some of their products will continue to apply until 31 December 1995, and in certain cases even beyond that date. They call for controls hitherto conducted by customs during the completion of formalities for release for consumption.</p> <p>2. The Council Regulations encompass 12 Regulations often amending previous Regulations. They can be grouped into four areas.</p> <p>3. Price Regulations</p> <p>Four Regulations relate to the early alignment on 1 January 1993 of Spanish and Portuguese prices on the common prices. This means the abolition of the accession compensatory amounts (ACAs) on that date. They are for:</p> <ul style="list-style-type: none"><li>— a Regulation modifying the transitional arrangements for common organization of the cereals and rice markets in Portugal provided for by Regulation (EEC) No 3653/90;</li><li>— a Regulation on the application of the common price for milk powder in Portugal;</li><li>— a Regulation on the application in Spain of the derived price for sugar and of the basic price for beet specified under the market organization for sugar;</li><li>— a Regulation on the application of the common intervention price for olive oil in Spain and in Portugal.</li></ul> <p>The first three Regulations relate to products for which the Spanish or Portuguese prices are higher than the common prices. Application of the common prices will thus mean a fall in prices in these countries and the Commission's proposals therefore include aid to offset the resultant losses. The cereals and rice Regulation also includes abolition of the fixed components for derived cereal and rice products. Nevertheless, the situation will be monitored and any necessary transitional measures will be put in place. The sugar sector Regulation takes account, at the prices level, of the shortfall on the Spanish market and also contains measures to facilitate restructuring of the Spanish sugar industry.</p>



#### 4. Regulation relating to the compensation mechanism for fruit and vegetables

This Regulation abolishes the compensation mechanisms for fruit and vegetables; the Commission considers that protection of the markets of the Member States of the Community as constituted at 31 December 1985 can be ensured by retaining the supplementary trade mechanism for the most sensitive Spanish products. The Commission also believes that the compensatory mechanisms for fruit and vegetables introduced by the Act of Accession should be repealed, since they would be impossible to apply without frontier controls.

#### 5. Regulations regarding the supplementary trade mechanism

There are four Regulations:

- The first concerns the list of products to which the mechanism will continue to apply in Portugal. It comprises live bovine animals and two products covered by the common market organization (CMO) in fruit and vegetables (oranges and apples other than cider apples).
- The other three Regulations were drawn up in order to introduce the broad principles of the new monitoring arrangements for the supplementary trade mechanism (STM) into three Council Regulations already in force on this subject:
  - Regulation (EEC) No 569/86 applicable currently to all products with the exception of fruit and vegetables and covering both Spain and Portugal;
  - Regulation (EEC) No 3210/89 covering fruit and vegetables consigned from Spain to the Community of Ten;
  - Regulation (EEC) No 3651/90 covering Portuguese imports of fruit and vegetables from the other Member States.

All these Regulations are based on the principle that monitoring of the STM will be first and foremost the responsibility of the importing countries. However, the authorities of the other Member States will collaborate with the exporting countries to detect and suppress irregularities. In addition, the Regulations amending Regulation (EEC) No 3210/89 laying down general rules for applying the supplementary trade mechanism to fresh fruit and vegetables and Regulation (EEC) No 3651/90 laying down general rules for applying the supplementary trade mechanism to trade in fresh fruit and vegetables between Portugal and the other Member States provide for application of similar controls during sensitive periods. Nevertheless, in the event of persistent serious disturbance, the three Regulations provide for appropriate measures allowing a derogation from the provisions of the market organizations for local and regional markets.

#### 6. Regulations designed to take account of farmers' income and the structural situation in Portuguese agriculture following abolition of the STM.

The Regulations provide for the following measures:

- broadening for Portugal of the reallocation criteria for milk sector reference quantities available under the production abandonment scheme and Community financing of the reallocation within the limit of an additional ECU 38.5 million;
- increased aid for the establishment and operation of producer organizations;
- an increase in the suckler cow premium to ECU 160 per eligible animal for three years (1993-94-95).

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7. These Regulations are aimed at a closer integration of Spain and Portugal into the single market by amending the procedures laid down by the Act of Accession.

*(4) Opinion of the European Parliament*

Not applicable.

*(5) Current status of the proposal*

Regulations concerning Portugal: 1.4.1993  
Regulations concerning Spain: 1.1.1993

*(6) References*

Official Journal L 387, 31.12.1992  
Official Journal L 77, 31.3.1993

*(7) Follow-up work*

*(8) Commission implementing measures*

## 1. CONTROL OF GOODS

### 1.30. Dual-use goods and technologies

- (1) *Objective* To ensure that Member States carry out effective controls on the exportation or re-exportation from the Community of certain dual-use goods and technologies, so that the corresponding controls currently applied in respect of intra-Community trade can be removed.
- (2) *Proposal* Proposal for a Council Regulation on the control of exports of certain dual-use goods and technologies and of certain nuclear products and technologies.
- (3) *Contents*
1. 'Dual-use goods' is defined as 'any of the goods, related technologies (technical and scientific information, including know-how and engineering expertise), as well as certain nuclear products and technologies, which can be used for both civil and military purposes and which appear on a list to be enacted in a complementary regulation to this Regulation'.
  2. The exportation of these goods and technologies is subject to authorization by the authorities in the Member States. Even if the goods are not listed, an exporter must seek authorization to export them where they are intended for any of a number of uses set out in Article 4. Member States may prohibit the exportation of unlisted goods where the competent authorities have reason to believe that they may be used for purposes which are incompatible in particular with the country's international commitments.
  3. An export authorization is granted by the competent authorities in the Member State concerned and is valid throughout the Community. There is provision for simplified formalities. To ensure that the names of the competent national authorities are a matter of public record throughout the Community, the Commission will publish a list of them in the C series of the Official Journal.
  4. To avoid the danger that authorization might be granted by one of them and refused by another, Member States are required to apply the same stated criteria in deciding whether to grant authorization. Exporters must supply the authorities with all the information in their possession relevant to an application. Authorization may be withdrawn if it transpires that false or incomplete information was supplied.
  5. Member States may limit the number of customs offices at which export formalities may be completed.
  6. To ensure that there is strict control of exports at the Community's external border, the authorities in the Member States are to cooperate closely and to exchange all relevant information.
  7. Exporters must supply appropriate documentation for control purposes: commercial documents must contain specified information, and commercial records must be kept available for inspection by the authorities.
  8. Member States are to take all necessary measures to satisfy themselves that interested parties are fully aware of their obligations.
  9. During the period in which the single market is being completed, there is a danger of deflection of trade, and the Commission has included a provision under which trade in these goods inside the

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Community may be subjected to some measure of control for not more than a year after the Regulation enters into force.

*(4) Opinion of the European Parliament*

Parliament approved the Commission's proposal subject to amendments designed, among other things, to extend the scope of the Regulation to the movement of dual-use goods and nuclear products and technologies within the Community.

*(5) Current status of the proposal*

Consultation procedure

The Commission presented the proposal on 31 August 1992.

On 14 September 1993 Parliament approved the Commission proposal subject to amendments. The Commission has accepted some of the amendments.

On 14 June 1994 the Council reached political agreement on the adoption of this proposal. Formal adoption is scheduled for the next meeting.

The Member States have agreed that, as from 1 January 1993, intra-Community trade in dual-use goods and technologies will no longer be subject to control at the Community's internal frontiers but will instead be subject only to controls carried out as part of normal control procedures applied in a non-discriminatory manner throughout the Community.

*(6) References*

Commission proposal  
COM(92) 317 final  
European Parliament opinion  
Economic and Social  
Committee opinion

Official Journal C 253, 30.9.1992  
Official Journal C 268, 4.10.1993

Not yet published



## 1. CONTROL OF GOODS

### 1.31. Product safety

- (1) *Objective* To make safety a general requirement at Community level so that producers can place only safe products on the market.
- (2) *Community measures* Council Directive 92/59/EEC of 29 June 1992 on general product safety.
- (3) *Contents*
1. Definitions of the concepts of 'product', 'safe product', 'dangerous product', 'producer', 'distributor'.
  2. The Directive applies mainly to consumer products.
  3. The provisions of the Directive apply in so far as there are no specific provisions in rules of Community law governing the safety of the products concerned.
  4. A product is regarded as safe if it conforms to the specific Community provisions governing its safety. In the absence of such provisions, the product must conform to the specific national health and safety rules applicable before it can be marketed in the Member State in whose territory it is in circulation. In the absence of Community or national rules, the conformity of a product must be assessed having regard to:
    - voluntary national standards giving effect to European standards;
    - Community technical specifications;
    - standards drawn up in the Member State in which the product is in circulation;
    - codes of good practice in respect of health and safety in the sector concerned;
    - the state of the art and technology.
  5. The Member States must establish administrative infrastructures to enable hazardous or dangerous products to be identified so as to ensure compliance with the general safety requirement.
  6. The Directive gives a non-restrictive list of measures which the Member States must be able to take in order to enforce compliance with the general safety requirement.
  7. The Directive has a general saving clause which applies to consumer products which do not conform to the Community or national rules applicable, which could place the health and safety of consumers at risk but do not present a serious or immediate danger, and which are not yet covered by an equivalent procedure at Community level. Under this provision, any Member State may impose restrictions on the products in question, but must inform the Commission, which is then required to issue an opinion on the appropriateness of the measures taken.
  8. In the case of a product which presents a serious and immediate risk extending beyond the territory of the Member State concerned, the Member State must notify the Commission that it has taken or is going to take emergency measures to restrict or prevent the marketing of that product. The Commission will check to see whether the product complies with the provisions of the Directive and will forward the information to the other Member States, which, in turn, must immediately inform the Commission of any measures they adopt to deal with the problem.

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9. In certain circumstances, and in particular where the Member States differ on the measures to be taken and where the specific Community procedures prove inadequate to deal with the risk, the Directive provides for a Community procedure for the adoption of emergency measures. Under this procedure, the Commission, assisted by a Committee on Product Safety Emergencies, may decide to require the Member States to take identical measures within a certain time-limit with regard to the allegedly dangerous product.

10. Reasons must be given for any decision adopted under the Directive, and it may be challenged before the competent courts.

*(4) Deadline for implementation of the legislation in the Member States*

29.6.1994

*(5) Date of entry into force (if different from the above)*

*(6) References*

Official Journal L 228, 11.8.1992

*(7) Follow-up work*

*(8) Commission implementing measures*

## 1. CONTROL OF GOODS

### 1.32. Data communications networks between administrations: series of guidelines for data communications networks between administrations

- (1) *Objective* To propose a series of measures aimed at enabling the national administrations and Community institutions and bodies to process and exchange with each other, by setting up and using the appropriate trans-European data communications networks, the information required for the functioning of the internal market and the implementation of common policies.
- (2) *Proposal* Proposal for a Council Decision on a series of guidelines for trans-European data communications networks between administrations.
- (3) *Contents*
1. The development of the European Union, and in particular the removal of controls at internal Community borders to allow the free movement of persons, goods, capital and services, means that a large number of new rules are being laid down. These new rules will lead to substantial interchanges between individuals, economic operators and the national administrations. Only advanced data communications and telecommunications networks are able to provide a fast, efficient exchange of such information between the competent national authorities.
  2. The objective of the European Community is to propose a series of measures aimed at enabling the national administrations to process and exchange such information with each other using trans-European data communications networks.
  3. Four series of measures are proposed to achieve this objective:
    - The adoption of an 'overall plan' of action to be carried out to set up trans-European data communications networks for the efficient exchange of information. This overall plan is analysed in this section.
    - The adoption of a multiannual IDA (Interchange of Data between Administrations) programme representing the Community contribution to the implementation of projects of common interest (e.g. Comedi, ANIMO, etc.) and to the action required to ensure the interoperability of the trans-European networks concerned.
    - The setting up of a high-level coordinating group responsible for assisting the Commission in the implementation of the multiannual IDA programme.
    - To open discussions with the EFTA countries to evaluate how the extension of the data communications networks between administrations to these countries might help to facilitate the management of European Economic Area.
- Proposal for a decision on an 'overall plan'
1. The proposal defines the broad lines of action and the projects of common interest in the field of trans-European data communications networks between administrations in order to contribute to the management of a European area without internal borders.
  2. The aim of the broad lines of action is to:
    - Carry out feasibility studies to determine the technical specifications of data communications networks which will contribute to projects of common interest;

- Implement these data communications networks;
  - Ensure interoperability between the various networks by harmonizing the standards and systems used to transmit the information;
  - Promote the provision to users of bearer services such as electronic mail, access to databases and file transfer in order to ensure that the information is passed among those concerned.
3. The trans-European data communications networks between administrations to be implemented under this decision are to be covered by projects of common interest. The following projects are covered:
- Data communications networks between administrations for statistics on trade in goods between Member States (Comedi) (summary 1.34).
  - Intra-Community trade in animals (ANIMO) (summary 1.35).
  - Veterinary and plant health controls (SHIFT) (summary 1.36).
  - Prevention of fraud CIS (summary 1.37).

*(4) Opinion of the European Parliament*

Not yet delivered.

*(5) Current status of the proposal*

Consultation procedure

The Commission presented the proposal on 12 March 1993.

The proposal is currently before Parliament for its opinion.

*(6) References*

Commission proposal  
COM(93) 69 final  
Economic and Social  
Committee opinion

Official Journal C 105, 16.4.1993

Official Journal C 249, 13.9.1993



## 1. CONTROL OF GOODS

### 1.33. Data communications networks between administrations: IDA programme

- (1) *Objective* The multiannual IDA programme represents the European Community's contribution to the implementation of the projects of common interest and the action needed to ensure the interoperability of the trans-European networks concerned.
- (2) *Proposal* Proposal for a Council Decision adopting a multiannual Community programme to support the implementation of trans-European networks for the interchange of data between administrations (IDA).
- (3) *Contents*
1. This proposal fits into the framework of the action being carried out by the European Community on data interchange between administrations (summary 1.32). The Community needs to establish a framework for its contribution to implementing the trans-European data communications networks between administrations where the objectives of the proposed measures cannot be adequately attained by the Member States and are therefore, by virtue of the scale and the implications of the measures in question, best carried out at Community level.
  2. The multiannual IDA (interchange of data between administrations) programme will run for five years from the date of the Decision.
  3. The programme consists of two parts:
    - To support projects of common interest on computerized interchange of information, data and documents between administrations within the Community. The support includes feasibility studies and Community support for the practical implementation of the various projects.
    - To ensure the interoperability of data communications networks and applications, increase their reliability and reduce the costs. This part consists of providing technical interconnection solutions for the various administrations (defining a common architecture, harmonizing technical standards, etc.).
  4. The Commission will be assisted by an advisory committee composed of the representatives of the Member States and chaired by the representative of the Commission. The Committee may examine any question relating to the interchange of data between administrations.
- (4) *Opinion of the European Parliament* Not yet delivered.
- (5) *Current status of the proposal* Consultation procedure  
The Commission presented the proposal on 12 March 1993.  
The proposal is currently before Parliament for its opinion.
- (6) *References*
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| Commission proposal<br>COM(93) 69 final<br>Economic and Social<br>Committee opinion | Official Journal C 105, 16.4.1993<br><br>Official Journal C 249, 13.9.1993 |
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## 1. CONTROL OF GOODS

### 1.34. Data communications networks between administrations: Comedi system

- (1) *Objective* To implement a computerized telematic infrastructure based on a trans-European telematic network interconnecting the national and Community statistical information systems, to which businesses will also have access.
- (2) *Proposal* Proposal for a Council Decision on data communications networks for statistics relating to the trading of goods between Member States (Comedi).
- (3) *Contents*
1. With the elimination of physical frontiers, it is no longer possible to collect data on the trading of goods between Member States at the internal borders. Council Regulation (EEC) No 3330/91 on statistics relating to the trading of goods between Member States (summaries 1.13 and 1.14) lays down that the conditions should be created for increased use of automatic data processing and electronic data transmission in order to facilitate the acquisition of these data.
  2. The decision aims therefore at establishing a system for collecting directly from the consignors and consignees the data necessary to compile statistics relating to the trading of goods between Member States, using methods and techniques which will ensure that they are exhaustive, reliable and up-to-date, without giving rise for the parties concerned, in particular for small and medium-sized businesses, to a burden out of proportion to the results which users of the said statistics can reasonably expect.
  3. This system is to be based on a set of distributed databases, the interoperability of which is guaranteed by the development and use of harmonized standards and communications procedures.
  4. The system involves a set of measures comprising in particular the provision to businesses of software for the collection of statistical information, the provision to the bodies responsible for collecting information of software for the acceptance of data and facilities for the exchange of information.
  5. These measures will be implemented over the period 1993 to 1997.
- (4) *Opinion of the European Parliament* Parliament approved the Commission's proposal subject to an amendment concerning the general promotion of trans-European networks.
- (5) *Current status of the proposal* Consultation procedure
- The Commission presented the proposal on 12 March 1993.
- On 16 December 1993, the Council reached political agreement on the adoption of this proposal. As the legal basis of the proposal has now changed (from Article 100 to Article 235), the consultation procedure now applies. Consequently, Parliament has merely to give its opinion.
- On 27 October 1993 Parliament approved the Commission proposal subject to amendments. The Commission has accepted some of the amendments.

On 5 May 1994, Parliament was again consulted on the change of legal basis. It voted in favour of Article 129 D3.

*(6) References*

Commission proposal

COM(93) 73 final

European Parliament opinion

Opinion of the Economic and

Social Committee

Official Journal C 87, 27.3.1993

Not yet published

Official Journal C 249, 13.9.1993

## 1. CONTROL OF GOODS

### 1.35. Data communications networks between administrations: ANIMO

<i>(1) Objective</i>	To set up a computerized network linking the veterinary authorities of the Member States.
<i>(2) Community measures</i>	Commission Decision 91/398/EEC of 19 July 1991 on a computerized network linking veterinary authorities (ANIMO).
<i>(3) Contents</i>	<ol style="list-style-type: none"><li>1. This Decision was adopted pursuant to Council Directive 90/425/EEC concerning the veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market.</li><li>2. A computerized network linking the various veterinary authorities is necessary following the ending of veterinary checks at the Community's internal borders.</li><li>3. The Commission is establishing the ANIMO computerized network linking veterinary authorities in order, in particular, to facilitate the exchange of information between the competent authorities of the regions in which a health certificate or document accompanying animals and animal products is issued and the competent authorities of the Member State of destination.</li><li>4. The Commission is to make a contribution to the expenditure necessary for the establishment of the ANIMO network.</li><li>5. The implementing Decisions define the basic structure of the ANIMO network, the rules on Community financing for equipment, the list of units on the network, the central server, the model for messages to be exchanged, the contractual relationship between the Member States and the company managing the central server and provisional derogations.</li></ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	Not required.
<i>(5) Date of entry into force (if different from the above)</i>	
<i>(6) References</i>	Official Journal L 221, 9.8.1991
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	<p>The detailed rules for the application of Commission Decision 91/398/EEC were laid down by the following Commission Decisions:</p> <p>Decision 91/426/EEC — Official Journal L 234, 23.8.1991, amended as regards the time limit for the transmission of certain supporting documents by Commission Decision 93/4/EEC (Official Journal L 4, 8.1.1993)</p> <p>Decision 91/539/EEC — Official Journal L 294, 25.10.1991</p> <p>Decision 91/585/EEC — Official Journal L 314, 15.11.1991</p> <p>Decision 91/637/EEC — Official Journal L 343, 13.12.1991</p>



supplemented by Commission Decision 93/70/EEC (Official Journal L 25, 2.2.1993) and amended by Commission Decision 94/307/EC (Official Journal L 133, 28.5.1994).

Decision 91/638/EEC — Official Journal L 343, 13.12.1991

Decision 92/175/EEC — Official Journal L 80, 25.3.1992, amended by Commission Decision 93/71/EEC (Official Journal L 25, 2.2.1993)

Decision 92/176/EEC — Official Journal L 80, 25.3.1992

Decision 92/341/EEC — Official Journal L 188, 8.7.1992

Decision 92/373/EEC — Official Journal L 195, 14.7.1992

Decision 92/486/EEC — Official Journal L 291, 7.10.1992, amended by Commission Decision 93/188/EEC (Official Journal L 82, 3.4.1993)

Decision 93/28/EEC — Official Journal L 16, 25.1.1993

## 1. CONTROL OF GOODS

### 1.36. Data communications networks between administrations: SHIFT

<i>(1) Objective</i>	To set up a computerized network for veterinary import procedures.
<i>(2) Community measures</i>	Council Decision 92/438/EEC of 13 July 1992 on computerization of veterinary import procedures (SHIFT project), amending Directives 90/675/EEC, 91/496/EEC and 91/628/EEC, Decision 90/424/EEC, and repealing Decision 88/192/EEC.
<i>(3) Contents</i>	<ol style="list-style-type: none"><li>1. In view of the considerable progress made towards the harmonization of the veterinary sector, further measures should be taken for the computerization of veterinary import procedures.</li><li>2. These new measures are all the more necessary now that checks at internal borders have been abolished.</li><li>3. This Decision provides for measures for the computerization of veterinary procedures comprising:<ul style="list-style-type: none"><li>— an information procedure in cases where an official veterinarian at a border inspection post rejects a consignment;</li><li>— databases containing full information on Community import requirements for animals and products.</li></ul></li><li>4. The equipment used at border inspection posts may be that used in connection with the ANIMO system (summary 1.35).</li></ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	Not required.
<i>(5) Date of entry into force (if different from the above)</i>	Not communicated.
<i>(6) References</i>	Official Journal L 243, 25.8.1992
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	Decision 92/563/EEC — Official Journal L 361, 10.12.1992 Commission Decision of 19 November 1992 on the database covering the Community's import requirements, envisaged by the SHIFT project. This decision lays down the characteristics and content of and the rules for the establishment and use of the database and that the Commission is to be responsible for its establishment and development.

## 1. CONTROL OF GOODS

### 1.37. Data communications networks between administrations: CIS system

- (1) Objective* To set up a computer system centralizing customs information in order to prosecute and investigate breaches of customs and agricultural legislation more effectively.
- (2) Proposal* Proposal for a Council Regulation replacing Council Regulation (EEC) No 1468/81 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs or agricultural matters.
- (3) Contents*
1. Among other things, this proposal sets up a customs information system (CIS), i.e. a common computer network set up and maintained by the Member States' customs administrations and the Commission in the form of a central database accessible via terminals in each Member State and at the Commission.
  2. The system makes it possible to prevent, investigate and prosecute breaches of customs or agricultural legislation (EAGGF-financed operations are not covered) by speeding up the flow of data and information thereby reinforcing the effectiveness of customs cooperation and checks.
  3. The CIS contains data only, including that of a personal character, necessary to achieve the objective specified in point 2.
  4. Personal details may only be introduced into the CIS if there are real indications that the person concerned has breached or is breaching customs or agricultural legislation.
  5. Some data (goods, means of transport, firms and persons) are introduced into the CIS to ensure the proper application of customs and agricultural legislation and for the purposes of checks on or discreet surveillance of suspect activities.
  6. Direct access to CIS data is restricted to the Member States' designated national authorities and the Commission.
  7. International or regional organizations may nevertheless consult the database in certain circumstances. Data may also, exceptionally, be transmitted to other national authorities or non-member countries.
  8. Each Member State sends the Commission a list of the authorities authorized to consult the system directly, specifying the information to which each may have access and to what purpose.
  9. The data in the CIS are confidential and may not be copied, unless the copy is necessary to the information search.
  10. Data may, of course, subsequently be used in legal proceedings brought for contravening customs or agricultural legislation.
  11. Any person may have inaccurate personal data concerning them corrected or deleted.
  12. The Commission and the Member States shall take all measures necessary to prevent the unauthorized reading, copying, modification or deletion of data during the transmission of data and the transport of data media.
  13. Interrogation of the CIS is also checked to ensure that searches were authorized and conducted by authorized users.

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*(4) Opinion of the European Parliament*

Not yet delivered.

*(5) Current status of the proposal*

Cooperation procedure

The Commission presented the proposal on 23 December 1992.

The Commission presented an amended proposal on 1 September 1993.

The proposal is currently before Parliament for its opinion.

*(6) References*

Commission proposal

COM(92) 544 final

Official Journal C 56, 26.2.1993

Amended proposal

COM(93) 350 final

Official Journal C 262, 28.9.1993

Economic and Social

Committee opinion

Official Journal C 161, 14.6.1993



## 2. CONTROL OF INDIVIDUALS

### Current position and outlook

The objective of the internal market is to establish within the Community a situation identical to that prevailing on a domestic market. The abolition of internal border controls on individuals, whether or not they are in employment or have the nationality of a Member State, has acquired symbolic value.

The free movement of individuals in an area without frontiers implies the abolition of individual controls on persons and the goods transported by them at internal Community borders, including ports and airports. It also means shifting such controls to external Community frontiers; consequently, problems relating to the entry of third-country nationals are dealt with by the first country entered by the person concerned.

All the measures relating to baggage — particularly firearms (summary 2.1), cultural goods and duty-free allowances for travellers — have been adopted. On 1 January 1993 controls on the baggage of persons crossing an internal border, whether by land, sea or air, were scrapped. However, the objective of abolishing identity checks on individuals has not yet been achieved.

The Member States consider that compensatory measures must first be taken if freedom of movement for individuals within the Community is to be implemented. Some of these measures have already been formulated, such as the adoption of legislation aimed at combating at European level the use of legal substances for illegal purposes such as the production of narcotics and psychotropic substances (summaries 2.2 and 2.3) and the establishment of the European Monitoring Centre for Drugs (summary 2.4).

However, the United Kingdom disagrees with the other Member States and the Commission regarding the interpretation of the principle of free movement of individuals, which, according to the United Kingdom, covers only Community nationals.

The entry into force of the Treaty on European Union on 1 November 1993 should accelerate the abolition of controls on individuals. It establishes:

- cooperation between the Member States and the European Union in areas previously covered by intergovernmental cooperation:
  - police and customs cooperation, asylum, crossing of external frontiers, drugs, cooperation on matters relating to criminal and civil law, and immigration;
- a procedure enabling a specific part of those responsibilities, including policy on the right of asylum, to be transferred to the European Community.

The implementation of the Treaty on European Union has so far enabled the Commission to present three proposals to the Council:

- the revised Convention on the crossing of the external frontiers of the Member States of the Union (summary 2.6);
- a proposal for a Regulation drawing up a list of countries whose nationals require a visa in order to enter the territory of the Community (summary 2.7).
- a proposal for a Regulation establishing a uniform format for visa.

The proposals form part of the work programme that will make it possible to carry out the first action plan on justice and home affairs, which was adopted by the Brussels European Council on 10 and 11 December 1993.

At the same time, nine Member States — Belgium, France, Germany, Greece, Italy, Luxembourg, the Netherlands, Portugal and Spain — plus Austria which has had observer status since June 1994, are striving to achieve this objective among themselves under the Schengen Agreement. The entry into force of the implementing Convention, which has

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already been deferred on three occasions, could take place in October 1994, but only between seven of the nine Member States — excluding Italy and Greece — provided that the tests of the Schengen information system are successful.

## 2. CONTROL OF INDIVIDUALS

### 2.1. Arms legislation

- (1) *Objective* To abolish controls on the possession of weapons at internal Community borders.
- (2) *Community measures* Council Directive 91/477/EEC of 18 June 1991 on the control of the acquisition and possession of weapons.
- (3) *Contents*
1. The Directive defines the terms 'weapon' and 'firearm', which also cover ammunition. The term 'dealer' is used to denote a person whose trade or business consists wholly or partly in the manufacture, trade, exchange, hiring out, repair or conversion of firearms. The Directive does not apply to the acquisition or possession of weapons and ammunition, in accordance with national law, by the armed forces, the police, or the public authorities or by collectors or recognized cultural and historical bodies.
  2. Member States may adopt more stringent provisions.
  3. To do business dealers require authorization. However, Member States may make the pursuit of the activity of dealers subject to a mere declaration where only firearms classified in categories C or D described below are dealt in. Dealers must keep detailed records of all transactions involving firearms classified in categories A, B or C, giving details which enable the weapon to be identified (type, make, model, calibre and serial number) and the names and addresses of the supplier and the person acquiring the weapon. The records must be kept for five years, even where the dealer stops trading.
  4. Basing itself on the progress made in talks on the subject between the Member States party to the Schengen Agreement, the Directive effects a partial harmonization of weapons legislation, with Member States remaining free to maintain or to introduce domestic legislation which is more stringent than the rules in the Directive. The Directive divides firearms into four categories:
    - A — prohibited firearms: mainly military weapons and those considered particularly dangerous;
    - B — firearms subject to authorization: these are mainly defensive weapons;
    - C — firearms subject to declaration: these are mainly hunting guns;
    - D — unrestricted firearms: these are shotguns of the least dangerous class.
  5. Member States are to prohibit the acquisition and possession of weapons and ammunition classified in category A, though they may grant authorization in special cases where this is not contrary to public security or public order. Member States may allow the acquisition and possession of firearms classified in category B only by persons who have good cause and who:
    - are 18 years old or more, except for hunting or target shooting;
    - are not likely to be a danger to themselves, to public order or to public safety.
 Member States may allow the possession of firearms classified in categories C and D only by persons satisfying the same conditions.
  6. Persons are deemed to be residents of the country indicated by the address on any identity document which they submit to the authorities of a Member State or to a dealer when a check is made on possession

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or on acquisition. If the person concerned is resident in the Member State in which he acquires the weapon, authorization to acquire it is to be a matter for that State alone. If he is resident in another Member State authorization is to require the agreement of both States. Authorization to possess a weapon depends only on the Member State in which the weapon is held, even if the person concerned is resident in another Member State. Member States are to prohibit the handing over of firearms to any person resident in another Member State unless he has authorization to receive them.

7. Firearms may be transferred from one Member State to another only if the transfer is authorized by the Member State of departure, and in certain cases by the Member State of destination too. Where a transfer is authorized, a licence is to be issued showing the names and addresses of the seller and the buyer; details allowing the weapon to be identified; the date of departure and estimated date of arrival of the weapon; the address to which the firearm is to be consigned or transported; the number of firearms to be consigned or transported; and the means of transfer. A copy of this licence is to be sent to the Member State of destination and to any Member State through whose territory the weapon is to pass.

8. A temporary transfer procedure is laid down to cover travel. Travellers other than hunters and marksmen will have to obtain the authorization of every Member State they propose to visit while in possession of a firearm. But this will be made easier if the traveller holds a European firearms pass, which will represent proof acceptable to all national administrations that the traveller is lawfully in possession, in his country of origin, of the firearm or firearms mentioned on the pass. The pass, on which any changes concerning the firearm or firearms must be indicated (changes in possession or characteristics, loss or theft), will be valid for a maximum of five years, subject to renewal, or 10 years where only firearms classified in category D appear on the pass.

9. Hunters and marksmen will be entitled to travel to other Member States with their weapons without having to seek prior authorization, on condition that they are in possession of a European firearms pass listing the firearm or firearms they have with them and that they can substantiate the purpose of their journey (hunting, competition, etc.) if called upon to do so in the country visited.

10. The Directive does not affect national rules on the carrying of weapons or regulating hunting or target-shooting. It does not apply to the acquisition and possession of weapons by the armed forces, the police, the public authorities or bodies concerned with the cultural and historical aspects of weapons and recognized as such by the Member State in whose territory they are established. Nor does it apply to trade in munitions. It does not prevent controls carried out by Member States or by the carrier at the time of boarding of a means of transport.

11. Each Member State is to intensify controls on the possession of weapons at external Community frontiers. Member States will be carrying out these controls on behalf of all the Member States.

12. An information exchange network is to be set up between Member States covering all transfers of weapons, whether definitive or not and whether lawful or unlawful, by 1 January 1993.



	13. Within five years from the date of transposition of the Directive into national law, the Commission is to submit a report to the European Parliament and to the Council on the situation resulting from the application of the Directive, accompanied, if appropriate, by proposals.
<i>(4) Deadline for implementation of the legislation in the Member States</i>	1.1.1993
<i>(5) Date of entry into force (if different from the above)</i>	
<i>(6) References</i>	Amended opinion Official Journal L 256, 13.9.1991 Official Journal L 299, 30.10.1991
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	Recommendation 93/216/EEC — Official Journal L 93, 17.4.1993 Commission Recommendation of 25 February 1993 on the European firearms pass. The Recommendation determines the layout of the pass, the logo that must appear on it and the particulars it must contain. The pass is intended to facilitate the free movement of hunters and marksmen in the Community. Its standard layout will make it immediately recognizable by officials carrying out checks within the Member States. The officials' task will be simplified by the arrangement and numbering of the sections and by the inclusion of a list of the terms used together with their meanings.

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## 2. CONTROL OF INDIVIDUALS

### 2.2. Narcotic drugs and psychotropic substances: external aspects

#### *(1) Objective*

To prevent substances lawfully traded between the Community and third countries from being diverted to the illicit manufacture of narcotic drugs and psychotropic substances.

#### *(2) Community measures*

Council Regulation (EEC) No 3677/90 of 13 December 1990 laying down measures to be taken to discourage the diversion of certain substances to the illicit manufacture of narcotic drugs and psychotropic substances.

Council Regulation (EEC) No 900/92 of 31 March 1992 amending Regulation (EEC) No 3677/90 of 13 December 1990 laying down measures to be taken to discourage the diversion of certain substances to the illicit manufacture of narcotic drugs and psychotropic substances.

#### *(3) Contents*

1. The import, export and transit of substances listed in the annex to the Regulation must be documented in such a way as to disclose the name of the substances, their quantity and weight and the name and address of the exporter, the importer, the distributor and the ultimate consignee. Records of such transactions must be kept by the operators concerned, who must be licensed and registered as such by the competent authorities.
2. The Member States are responsible for establishing close cooperation between the operators and the competent authorities to enable the latter to prevent diversions from occurring. To this end, operators transmit to the competent authorities all relevant information and notify them of all export transactions involving scheduled substances. In addition, they must lodge an application for export authorization in respect of each operation with the competent authorities of the Member State in which the customs export formalities are to be completed at least 15 working days before any customs export declaration is lodged. Applications for authorization must contain full information concerning the transport arrangements, the name and address of all operators involved, and the nature, quantity and weight of the substance. The competent authorities must reach a decision within the said period.
3. If there are grounds for suspecting that diversion might occur, export of the substance is forbidden by written order from the competent authorities.
4. A similar procedure applies to third countries having requested the Commission to inform them of any shipment of substances to their territory. Third countries may also lodge applications for specific or open authorizations prior to the export of such substances. A similar procedure applies to third countries having concluded an agreement with the Community on the issuing of import permits. Specific procedures apply to countries identified as sensitive as regards the possible diversion of certain scheduled substances.
5. The Member States are responsible for providing their respective competent authorities with the means to obtain information and conduct enquiries in order to prevent diversion from occurring. In the same way as the customs authorities, the competent authorities may,

where there are grounds for suspecting that diversion might occur, prohibit the import or export of the substances listed in the annex.

6. The principles of mutual assistance and confidentiality inform the work of the administrations of the Member States. It is the latter's responsibility to determine appropriate penalties for infringements. Each year the Member States communicate to the Commission the results of their monitoring measures, on the basis of which the Commission draws up an annual report to be submitted to the International Narcotics Control Board.

*(4) Deadline for implementation of the legislation in the Member States*

Not required.

*(5) Date of entry into force (if different from the above)*

- Council Regulation (EEC) No 3677/90 enters into force on 1 January 1991 and applies from 1 July 1991;
- Council Regulation (EEC) No 900/92 enters into force on 13 April 1992 and applies from 1 January 1993 (with the exception of Article 1(11), on the Commission's authority to represent the Community when adopting amendments to the UN Convention against illicit traffic in narcotic drugs and psychotropic substances which applies from 13 April 1992).

*(6) References*

Official Journal L 357, 20.12.1990  
Official Journal L 96, 10.4.1992

*(7) Follow-up work*

*(8) Commission implementing measures*

Regulation (EEC) No 3769/92 — Official Journal L 383, 29.12.1992  
Commission Regulation of 21 December 1992 implementing and amending Council Regulation (EEC) No 3677/90 laying down measures to be taken to discourage the diversion of certain substances to the illicit manufacture of narcotic drugs and psychotropic substances. This Regulation was the object of a corrigendum published in Official Journal L 200, 10.8.1993.

Regulation (EEC) No 2959/93 — Official Journal L 267, 28.10.1993  
Commission Regulation of 27 October 1993 amending Regulation (EEC) No 3769/92 implementing and amending Council Regulation (EEC) No 3677/90 laying down measures to be taken to discourage the diversion of certain substances to the illicit manufacture of narcotic drugs and psychotropic substances, as amended by Regulation (EEC) No 900/92.

## 2. CONTROL OF INDIVIDUALS

### 2.3. Narcotic drugs and psychotropic substances: internal aspects

<i>(1) Objective</i>	To prevent the manufacture of narcotic drugs and psychotropic substances legitimately marketed in the Community from being diverted for illicit purposes.
<i>(2) Community measures</i>	Council Directive 92/109/EEC of 14 December 1992 on the manufacture and the placing on the market of certain substances used in the illicit manufacture of narcotic drugs and psychotropic substances.
<i>(3) Contents</i>	<ol style="list-style-type: none"><li>1. The Directive distinguishes two types of precursor: those with limited use for licit purposes, and those of essential importance for legitimate commercial use.</li><li>2. Definitions of 'scheduled substance', 'placing on the market', 'operator', 'UN Convention' and 'International Narcotics Control Board'.</li><li>3. The Directive lays down requirements in respect of documentation, records and labelling. It guarantees the competent authorities access to documents and records for verification purposes.</li><li>4. Member States must designate a competent authority in order to ensure proper application of the Directive. The Directive also requires intra-Community cooperation between the competent authorities.</li><li>5. Member States are to take all appropriate measures to encourage operators to notify the competent authorities of all unusual orders or transactions relating to scheduled substances which show that the substances which are to be placed on the market or manufactured are likely to be used in the illicit manufacture of narcotic drugs or psychotropic substances. Likewise, the Member States shall encourage all persons who suspect, from information obtained by reason of their professional duties, that scheduled substances which have been, or are about to be, placed on the market or manufactured are likely to be used for the illicit manufacture of narcotic drugs or psychotropic substances, to inform the competent authorities thereof.</li><li>6. With regard to the control measures, the Directive confers on the competent authorities powers of inspection, search and seizure. The competent authorities may prohibit the placing on the market or manufacture of scheduled substances if they believe that these substances are ultimately destined for the illegal manufacture of narcotic drugs or psychotropic substances.</li><li>7. An annual report drawn up by the Commission will be submitted to the International Narcotics Control Board. The report will provide information on the amounts of scheduled substances seized; the methods of diversion and illicit manufacture; any substances identified as having been used in illicit manufacture of narcotic drugs or psychotropic substances; the nature and origin of processing equipment seized.</li></ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	1.7.1993





(5) *Date of entry into force (if different from the above)* — 1.7.1993  
— 1.1.1993: for certain measures

(6) *References* Official Journal L 370, 19.12.1992

(7) *Follow-up work*

(8) *Commission implementing measures* Directive 93/46/EEC — Official Journal L 159, 1.7.1993  
Commission Directive of 22 June 1993 replacing and amending the annexes to Directive 92/109/EEC on the manufacture and the placing on the market of certain substances used in the illicit manufacture of narcotic drugs and psychotropic substances.  
The aim of this Directive is to give effect to the decision of the United Nations Drugs Commission to add three substances, namely safrol, piperonal and isosafrol, to the annexes to Directive 92/109/EEC so as to make it possible to exercise stricter controls on these substances.

## 2. CONTROL OF INDIVIDUALS

### 2.4. European Monitoring Centre for Drugs and Drug Addiction

<i>(1) Objective</i>	To provide the Community and the Member States with an overall picture of drugs and drug addiction by setting up a monitoring centre to supply objective, reliable and comparable information on the subject at European level.
<i>(2) Community measures</i>	Council Regulation (EEC) No 302/93 of 8 February 1993 on the establishment of a European Monitoring Centre for Drugs and Drug Addiction.
<i>(3) Contents</i>	<ol style="list-style-type: none"><li>1. The Regulation sets up the European Monitoring Centre for Drugs and Drug Addiction (EDMC).</li><li>2. The Centre's areas of activity are the following:<ul style="list-style-type: none"><li>— demand for drugs and ways of reducing it;</li><li>— national and Community strategies and policies;</li><li>— international cooperation and geopolitics of supply;</li><li>— control of trafficking in drugs, psychotropic substances and precursors;</li><li>— the implications of drugs for producer, consumer and transit countries.</li></ul></li><li>3. The role of the Centre in its areas of activity is:<ul style="list-style-type: none"><li>— to collect and analyse the data available;</li><li>— to improve data-comparison methods;</li><li>— to disseminate information;</li><li>— to cooperate with European and international governmental and non-governmental bodies and organizations with responsibility for drugs questions and with non-Community countries.</li></ul></li><li>4. The Centre coordinates and runs the European Information Network on Drugs and Drug Addiction (Reitox) at Community level, which:<ul style="list-style-type: none"><li>— serves as the infrastructure for collecting and exchanging information and documentation;</li><li>— draws on national drug information networks, the specialized centres in Member States and the information systems of the international or European organizations cooperating with the Centre.</li></ul></li><li>5. Provisions on data protection and confidentiality.</li><li>6. The Centre has legal personality.</li><li>7. The Regulation will be reviewed in the third year of operation on the basis of a Commission report listing the Centre's achievements.</li><li>8. On 29 October 1993 the European Council decided that the Centre would be located in Lisbon.</li></ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	
<i>(5) Date of entry into force (if different from the above)</i>	30.10.1993
<i>(6) References</i>	Official Journal L 36, 12.2.1993

*(7) Follow-up work*

On 23 July 1993 the Commission presented a proposal for a Council Regulation (EEC) amending Regulation (EEC) No 302/93 on the establishment of a European Monitoring Centre for Drugs and Drug Addiction (COM(93) 299 final — Official Journal C 225, 20.8.1993). The proposal amends the financial and budgetary provisions relating to the Centre.

*(8) Commission  
implementing  
measures*

## 2. CONTROL OF INDIVIDUALS

### 2.5. Processing of personal data

*(1) Objective*

To establish a high level of equivalent protection in all the Member States of the Community in order to remove the obstacles to the exchange of data which is necessary if the internal market is to function.

*(2) Proposal*

Proposal for a Council Directive concerning the protection of individuals in relation to the processing of personal data.

Draft resolution of the representatives of the governments of the Member States of the European Communities meeting within the Council.

Recommendation for a Council Decision on the opening of negotiations with a view to the accession of the European Community to the Council of Europe Convention for the protection of individuals with regard to the automatic processing of personal data.

*(3) Contents*

Proposal for a Council Directive

1. This Directive provides for an equivalent level of protection of individuals in relation to the processing of personal data in accordance with the same principles in all the Member States. The protection of individuals and the flow of data are guaranteed only in respect of the areas covered by this Directive.

2. Definitions of the concepts of 'personal data', 'depersonalized', 'personal data file', 'processing', 'controller of the file, supervisory authority', 'public sector' and 'private sector'.

3. This Directive applies to all data files in the private and public sectors with the exception of files in the public sector where the activities of that sector do not fall within the scope of Community law.

4. Each Member State shall apply the provisions of this Directive to:

- all files located in its territory;
- the controller of a file resident in its territory who uses from its territory a file located in a third country whose law does not provide an adequate level of protection, unless such use is only sporadic.

5. Lawfulness of processing in the public sector. The creation of a file in the public sector and any other processing of personal data shall be lawful only in so far as this is necessary for the performance of the tasks of the public authority in control of the file.

The processing of data for a purpose other than that for which the file was created is lawful if:

- the data subject consents thereto;
- it is effected on the basis of Community law, or of a law, or a measure taken pursuant to a law, of a Member State conforming with this Directive which authorizes it and defines the limits thereto;
- the legitimate interests of the data subject do not preclude such change of purpose;
- it is necessary in order to ward off an imminent threat to public order or a serious infringement of the rights of others.

As regards the processing of personal data in the public sector having as its objective the communication of personal data, the Member States require that this communication be lawful only if:

- it is necessary for the performance of the tasks of the public-sector entity communicating or requesting communication of the data, or
- it is requested by a natural or legal person in the private sector who invokes a legitimate interest, on condition that the interest of the data subject does not prevail.

6. Lawfulness of processing in the private sector. This can be based on the consent of the data subject or, in its absence, on the existence of a contractual relationship between the controller of the file and the data subject. The lawfulness may also be based on the fact that the data come from sources generally accessible to the public and their processing is intended for correspondence purposes, or on a balance of interests which reveals that the controller of the file is pursuing a legitimate interest and the interest of the data subject does not prevail. The data subject must, with some exceptions, be informed of the communication of data to third parties. Provision has been made for a procedure for notifying data files to a national supervisory authority.

7. The Directive also contains a number of provisions relating to the rights of data subjects, such as:

- informed consent;
- provision of information at the time of collection: Member States guarantee the right to be informed to individuals from whom personal data are collected;
- additional rights of data subjects (right of object, access, rectification, etc.);
- exceptions to the data subject's right of access to public-sector files.

8. On data quality, the Directive makes provision for:

- special categories of data: Member States shall prohibit the automatic processing of data revealing sensitive information. They may, on the basis of a law, grant derogations on important public interest grounds. Data concerning criminal convictions may be held only in public sector files;
- data security: the controller of a file is required to take security measures. In the event of on-line consultation, the hardware and software must be designed in such a way that the consultation takes place within the limits of the authorization granted by the controller of the file. Any person who in the course of his work has access to information controlled in files may not communicate it to third parties without the agreement of the controller of the files.

9. Member States may make provisions specifically relating to certain sectors such as the press and audiovisual media, and encourage business circles to participate in drawing up codes of conduct.

10. Personal data may be transferred to a third country only if this country ensures an adequate level of protection. Derogations are possible under certain conditions.

11. A working party on the protection of personal data is set up, composed of representatives of the national supervisory authorities and chaired by a representative of the Commission.

#### Draft resolution

The governments of the Member States undertake to apply the principles of the general Directive to public-sector files in those parts of the public sector which do not fall within the scope of Community law.

#### Recommendation for a Council Decision

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The Commission requests the Council to authorize it to negotiate a Protocol enabling the Community to accede to the Council of Europe Convention.

*(4) Opinion of the European Parliament*

First reading: Parliament adopted several amendments to the Commission proposal with the aim of clarifying its scope and strengthening the obligations of Member States with regard to the respect for privacy and individual rights and freedoms as well as the measures to regulate the processing, collection and communication of personal data.

*(5) Current status of the proposal*

Cooperation procedure

The Commission presented the proposal for a Directive on 18 July 1990.

First reading: On 11 March 1992 Parliament approved the Commission proposal subject to amendments. The Commission has accepted some of the amendments.

The Commission presented an amended proposal on 15 October 1992.

The proposal is currently before the Council for a common position.

*(6) References*

Commission proposal COM(90) 314 final	Official Journal C 277, 5.11.1990
Amended proposal COM(92) 422 final	Official Journal C 311, 27.11.1992
European Parliament opinion First reading	Official Journal C 94, 13.4.1992
Economic and Social Committee opinion	Official Journal C 159, 17.6.1991



## 2. CONTROL OF INDIVIDUALS

### 2.6. Crossing of the external frontiers of the Member States by nationals of third countries: convention

- (1) *Objective* To establish common rules governing the crossing of the external frontiers of the Member States and to promote cooperation in implementing a common policy on visas.
- (2) *Proposal* Proposal for a Decision, based on Article K.3 of the Treaty on European Union, establishing a Convention on controls on persons crossing the external frontiers of the Member States.
- (3) *Contents*
1. The proposal for a Decision recommends Member States to adopt by 31 December 1994 the Convention on controls on persons crossing the external frontiers of the Member States.
  2. The Convention applies principally to persons not entitled under Community law, i.e. persons who are not:
    - nationals of the Member States of the European Union or members of the family of such citizens who are nationals of a third State;
    - nationals of third States who have rights of entry and residence in a Member State which are identical to those enjoyed by citizens of the Union, and members of the family of such persons who are nationals of a third State and have the right of entry and residence in a Member State.
  3. The external frontiers are:
    - a Member State's land frontier which is not contiguous with a frontier of another Member State, and maritime frontiers;
    - airports and seaports, except where they are considered to be internal frontiers.
  4. The Convention sets out the general principles common to all Member States that apply to the crossing of external frontiers and to the carrying out of controls at those frontiers:
    - the controls:
      - are permanent;
      - are carried out on entry into and on departure from the territory of the Member States and on any individual presenting himself at a frontier in order to distinguish those entitled under Community law from other travellers;
    - the nature of the controls is explained;
    - specific arrangements are laid down for airports;
    - the conditions under which individuals are authorized to enter and stay in the territories of the Member States are listed;
    - derogations from refusal of entry to a Member State and refusal to issue a residence permit are authorized.
  5. The Convention lays down the rules which relate to visas and which are common to all Member States:
    - introduction of a uniform visa:
      - valid for short stays (neither the length of any continuous stay nor the total length of successive stays may exceed three months in a six-month period starting on the date of entry);
      - conditions of issue;
    - multiple-entry uniform visa;

- rules relating to national visas with limited territorial validity and required:
    - for the extension of a short stay;
    - for long-stay visas;
    - where a Member State objects to the issue of a uniform visa by another Member State;
  - common list of persons to whom the Member States are to refuse entry to their territories, to be drawn up on the basis of national notifications provided by Member States.
6. The Convention also applies to visas not covered by Article 100c of the Treaty. Any person:
- holding a residence permit or authorization issued by a Member State permitting him to reside in that State;
  - the remaining period of validity of which exceeds four months on entry;
- does not need a visa if he wishes to enter the territory of another Member State for a short stay or for transit purposes.
7. Measures to be taken by Member States against persons who have illegally crossed an external frontier and who are resident or not resident in a Member State.
8. Measures to be taken by carriers to assist control of travellers arriving from third States.

*(4) Opinion of the European Parliament*

Not yet delivered.

*(5) Current status of the proposal*

The Commission presented the proposal on 10 December 1993. The proposal is currently before Parliament for its opinion.

*(6) References*

Commission proposal  
COM(93) 684 final

Official Journal C 11, 15.1.1994



## 2. CONTROL OF INDIVIDUALS

### 2.7. Crossing of the external frontiers of the Member States by nationals of third countries: list of countries whose nationals are subject to the visa requirement

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|---|---|
| (1) <i>Objective</i>                          | To adopt a list — common to, and binding on, all Member States — of the third countries whose nationals must be in possession of a visa when entering the territory of the Member States.   |
| (2) <i>Proposal</i>                           | Proposal for a Council Regulation (EC), based on Article 100c of the Treaty establishing the European Community, determining the third countries whose nationals must be in possession of a visa when crossing the external frontiers of the Member States.   |
| (3) <i>Contents</i>                           | <p>1. This proposal sets out a list of 127 countries whose nationals must be in possession of a visa when crossing the external frontiers of the Member States.</p> <p>2. Transitional arrangements are to apply for the period up to 30 June 1996, during which Member States are to decide whether or not to require visas of nationals of third countries not included in the list. Any measures taken under those arrangements are to be notified to the Commission and published in the <i>Official Journal of the European Communities</i>.</p> <p>3. Mutual recognition by each Member State of visas which have been issued by other Member States and are valid throughout the Community.</p> <p>4. Definition of the term 'visa'.</p> |
| (4) <i>Opinion of the European Parliament</i> | Not yet delivered.  |
| (5) <i>Current status of the proposal</i>     | <p>Consultation procedure</p> <p>The Commission presented the proposal on 10 December 1993.</p> <p>The proposal is currently before Parliament and the Economic and Social Committee for their opinions.</p>  |
| (6) <i>References</i>                         | <p>Commission proposal<br/>COM(93) 684 final</p> <p style="text-align: right;">Official Journal C 11, 15.1.1994</p>   |

### 3. INDIRECT TAXATION

#### Current position and outlook

Since 1992 there have been decisive changes in indirect taxation, with the introduction of new rules on excise duties and new intra-Community VAT arrangements putting an end to tax frontiers and the associated customs-based formalities at borders between Member States.

Following the introduction of the value added tax system in 1967 and then of Directive 77/388/EEC on the uniform basis of assessment in 1977, legislation was adopted in 1991 and 1992 aimed at establishing the transitional VAT arrangements and simplifying the VAT system (summaries 3.2 and 3.3).

The legislation harmonizing the national laws governing the basis of assessment provides for many derogations, including those relating to used goods, works of art, antiques and collectors' items (summary 3.4), gold transactions (summary 3.9), passenger transport (summary 3.8) and small businesses (summary 3.6).

Under the transitional VAT arrangements, which are to apply in theory from 1 January 1993 to 31 December 1996, tax controls have been abolished at intra-Community frontiers, both for individuals and firms. The imposition of VAT on imports between Member States has now ceased; the new system for the payment of VAT is based on a distinction between sales between taxable persons, sales to individuals and sales to traders not subject to or exempt from VAT. The single administrative document for firms has been replaced by regular returns which they have to submit. As regards individuals, tax-free sales at ports and airports will continue to be permitted until 30 June 1999 for intra-Community travellers.

The abolition of tax frontiers calls for some degree of harmonization of VAT rates. Under the new arrangements, Member States apply a standard rate of VAT of at least 15% and have the option of applying one or two reduced rates (which must not be below 5%) solely to certain goods or services of a cultural or social nature. The temporary retention of existing zero rates and extra-low rates (i.e. below 5%) is authorized. The higher VAT rates have been abolished. These arrangements, which have to be reviewed before 31 December 1996, were to a large extent anticipated by Member States. They have led to reductions in the number of VAT rates and to appreciable cuts in those rates.

The principle of taxation in the country of consumption for goods and services intended for taxable persons, at the rates and under the conditions applicable in that country, has been retained pending the introduction of the definitive system for taxing trade between Member States. The aim is to eliminate possible distortion of competition and relocation of activity while rates are insufficiently aligned. The new arrangements are therefore designed to reinforce Community integration, while safeguarding the financial interests of the Member States.

Special arrangements remain for distance sales, purchases by exempt taxable persons or non-taxable legal persons, and sales of new means of transport.

As regards trade with third countries, imports are still subject to customs declaration requirements and are taxed on importation. Exports continue to be exempt subject to completion of the usual customs formalities. There are simplified arrangements for traders wishing to enter third-country goods for free circulation in one Member State before sending them directly to another Member State for use or consumption.

The definitive arrangements will be based on the principle of taxation in the Member State of origin of the goods or services supplied. There will therefore no longer be any distinction between transactions on domestic markets and those between Member States.

Before 31 December 1995 the Council has to adopt, on the basis of a Commission proposal, unanimous decisions on the entry into force and operation of the definitive arrangements. The Commission's proposal will take account of the smooth functioning of the current transitional arrangements with the aim of achieving a uniform basis of assessment for VAT, simplifying and alleviating the administrative burdens on firms and promoting cooperation between national tax authorities. Should it not be adopted, the transitional arrangements will be extended automatically.

Experience since January 1993 has shown the need for simplification of the common VAT system, without in any way casting doubt on the fundamental principles of VAT and its enforcement. The Commission has now presented a proposal aimed at simplifying the tax treatment of certain transactions (summary 3.2).

In addition, the Commission plans to put forward in 1995 proposals for gradually abolishing the derogations and special arrangements.

The Community rules on excise duties are a recent development. Unlike in the VAT sphere, general definitive arrangements govern the holding, movement and monitoring of products subject to excise duty. They are not coupled with transitional arrangements since the principle which has been adopted is that of taxation in the country of consumption.

These arrangements, in force since 1 January 1993, are one of the elements of the overall strategy for approximating the rates and harmonizing the structures of indirect taxation (summary 3.14). A territorial framework for the holding and movement of products subject to excise duty has been defined. The arrangements apply to alcoholic beverages, manufactured tobacco and mineral oils, and allow goods to be moved with suspension of excise duty and without checks at intra-Community frontiers. Excise duty is paid when the product is released for consumption and at the rate in force in the Member State of consumption. The movement of products covered by duty-suspension arrangements occurs via tax warehouses and under cover of an accompanying administrative document.

Minimum rates for alcohol and alcoholic beverages (summary 3.20), cigarettes (summary 3.17) and tobacco (summary 3.18) were introduced in 1992. It is laid down that every two years, and for the first time on 31 December 1994, the Council will examine the minimum rates and, in so doing, take account of the proper functioning of the internal market and the real value of those rates.

In line with the approach adopted by the Community for mineral oils and motor fuels (summaries 3.22 and 3.23), the Commission in 1992 presented a proposal aimed at bringing about a reduction in the rates of excise duty on fuels produced from agricultural sources, i.e. 'biofuels' (summary 3.24).

Alongside the approximation of the rates in force in Member States, a minimum degree of harmonization of structures is also necessary (scope of taxation, methods of collection, tax exemptions, payment terms) in order to dismantle tax frontiers. Several directives have been adopted harmonizing the structure of excise duties on alcoholic beverages, cigarettes, manufactured tobacco and mineral oils (summaries 3.15, 3.19 and 3.21). Their aim is to define more precisely which products are subject to tax, thus providing a common basis of taxation, and to determine the exemptions applicable.

Nevertheless, differences in structures have a less pronounced impact than the considerable discrepancies in rates. This is why specific allowances (for alcohol and tobacco) and derogations from the abolition of limits on purchases made by persons travelling within the Community have been authorized on a transitional basis for Denmark,

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Ireland, Germany and Spain (summary 3.25). Council Directive 94/4/EC of 14 February 1994 increased the level of allowances for travellers arriving from outside the Community from ECU 45 to 175, and the limits on tax-free purchases in intra-Community travel from ECU 45 to ECU 90 (summary 3.25).

### 3. INDIRECT TAXATION

#### 3.1. Administrative cooperation in the field of indirect taxation

- (1) *Objective* Establishment of a common system of administrative cooperation and information exchange between the competent authorities of the Member States in the field of indirect taxation.
- (2) *Community measures* Council Regulation (EEC) No 218/92 of 27 January 1992 on administrative cooperation in the field of indirect taxation.
- (3) *Contents*
1. The Regulation lays down the ways in which the administrative authorities in the Member States responsible for the application of laws on VAT must cooperate with each other and with the Commission to ensure compliance with those laws. It lays down procedures for the exchange by electronic means of VAT information relating to intra-Community transactions and for any subsequent exchange of information in this field.
  2. It stipulates that the competent authorities must exchange any information necessary to determine and collect indirect taxes. They must also provide the Commission with any particular or general information of interest to the Community.
  3. It also lays down that the competent authority must maintain an electronic database containing VAT information relating to intra-Community transactions. It specifies the particulars that the competent authorities must communicate automatically to the other Member States as well as the particulars to which the other Member States may also have direct access. Where such information is insufficient, the competent authorities may, in specific cases, request further information.
  4. Each Member State must maintain an electronic database containing a register of persons to whom VAT identification numbers have been issued. The competent authorities may obtain directly or have communicated to them confirmation of the validity of a VAT identification number of a person established in another Member State.
  5. The Regulation lays down the conditions governing the exchange of information, particularly as regards the number and nature of requests for information, the use of usual sources of information, etc. The Commission will present before July 1994 general criteria for defining the scope of these commitments. The Regulation also contains provisions on the confidential nature of information exchanged under the administrative cooperation arrangements.
  6. The Regulation provides for consultation and coordination procedures. It sets up a Standing Committee that will examine matters relating to the exchanges of information referred to above and adopt implementing measures. In addition, the Member States and the Commission will examine and evaluate the operation of the administrative cooperation arrangements with a view to improving them, notably in the light of Member States' experience of new means of tax avoidance and evasion. Every two years, the Commission must draw up a report on the conditions of application of the Regulation.
  7. Under the Regulation, Member States must inform the Commission of any administrative cooperation agreements in the field of indirect taxation that they have concluded with third countries.

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8. The Regulation entered into force on 4 February 1992. The practical control procedures will be adopted by the end of 1992, while the security afforded by frontier controls still exists.

*(4) Deadline for implementation of the legislation in the Member States*

Not applicable.

*(5) Date of entry into force (if different from the above)*

4.2.1992

*(6) References*

Official Journal L 24, 1.2.1992

*(7) Follow-up work*

*(8) Commission implementing measures*

### 3. INDIRECT TAXATION

#### 3.2. Value added tax: common VAT scheme: harmonization of turnover taxes

<i>(1) Objective</i>	To phase in a common system of value added tax.
<i>(2) Community measures</i>	<p>First Council Directive 67/227/EEC of 11 April 1967 on the harmonization of legislation of Member States concerning turnover taxes.</p> <p>Amended by the following measures:          Council Directive 69/463/EEC of 9 December 1969;          Council Directive 77/388/EEC of 17 May 1977.</p>
<i>(3) Contents</i>	<ol style="list-style-type: none"> <li>1. The following text contains a consolidation of the Directives.</li> <li>2. By 1 January 1972 at the latest each Member State is to replace, its system of turnover taxes by the common system of value added tax, but without an accompanying harmonization of rates and exemptions.</li> <li>3. The common system is to be based on the neutrality principle: within each Member State similar goods and services are to bear the same tax burden, whatever the length of the production and distribution chain.</li> <li>4. The structure of, and the procedure for applying, the common system of value added tax are to be the subject of a second Directive.</li> <li>5. During a second stage and on a proposal from the Commission presented before 1 January 1969, the Council is to adopt measures relating to the abolition of tax controls at intra-Community frontiers.</li> </ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	<ul style="list-style-type: none"> <li>— Directive 67/227/EEC: 12.4.1967</li> <li>— Directive 69/463/EEC: 15.12.1969</li> <li>— Directive 77/388/EEC: 23.5.1977</li> </ul>
<i>(5) Date of entry into force (if different from the above)</i>	<ul style="list-style-type: none"> <li>— Directive 67/227/EEC: 1.1.1970, apart from derogations</li> <li>— Directive 69/463/EEC: 1.1.1972</li> <li>— Directive 77/388/EEC: 31.12.1978</li> </ul>
<i>(6) References</i>	<p>Official Journal L 71, 14.4.1967          Official Journal L 320, 20.12.1969          Official Journal L 145, 23.5.1977</p>
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	

### 3. INDIRECT TAXATION

#### 3.3. Value added tax: common VAT scheme: uniform basis of assessment

*(1) Objective*

To abolish tax controls at internal frontiers for all transactions carried out between Member States, to approximate the VAT rates applicable to those transactions and to make provision for a transitional phase of limited duration that will ease the transition to the definitive arrangements for the taxation of trade between Member States.

*(2) Community measures*

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.

Amended by the following measures:

Council Directive 80/368/EEC of 26 March 1980;  
Council Regulation (EEC/Euratom) No 3308/80 of 16 December 1980;  
Council Directive 84/386/EEC of 31 July 1984;  
Council Directive 89/465/EEC of 18 July 1989;  
Council Directive 91/680/EEC of 16 December 1991;  
Council Directive 92/77/EEC of 19 October 1992;  
Council Directive 92/111/EEC of 14 December 1992;  
Council Directive 94/4/EC of 14 February 1994;  
Council Directive 94/5/EC of 14 February 1994.

*(3) Contents*

1. The following text contains a consolidation of existing Directives in this field.
2. VAT is applicable to the supply of goods or services effected for consideration within the territory of the country by a taxable person acting as such and to the importation of goods.
3. The taxable person is the person who independently carries out in any place one of the following economic activities, whatever the purpose or results: the activities of producers, traders and persons supplying services, including mining and agricultural activities and activities of the professions.
4. Several territories of individual Member States are excluded from the scope of the Directive.
5. From 1 January 1993 the concepts of importation and exportation are definitively abolished in respect of all transactions carried out between Member States and are confined to trade with third territories. Consequently, intra-Community sales and purchases of goods are treated in the same way as those taking place within the Member States.
6. Transitional tax arrangements applicable to intra-Community trade without frontier controls for a limited period (1 January 1993 to 31 December 1996) by way of derogation from the principle that supplies of goods or services are taxed in the Member State of origin.
7. These transactions are subject to tax at the rates and under the conditions prevailing in the Member State of destination of the goods or services supplied within the limits of the approximation of rates provided for in the abovementioned Directive:
  - the standard rate of VAT must be at least 15% in each Member State;



- one or two reduced rates of at least 5% are authorized for products having a social or cultural purpose (Annex H);
- rates no more than three percentage points below a Member State's standard rate are authorized for goods and services other than those referred to in Annex H which qualified for a reduced rate on 1 January 1991 but have been subject to the standard rate since 1 January 1994;
- zero rates and extra-low rates (below 5%) existing on 1 January 1991 may be maintained, in principle, until 1997;
- all increased rates are abolished.

8. The transitional arrangements will be replaced by a definitive system for the taxation of trade between Member States based, in principle, on taxation in the Member State of origin of supplies of goods or services. If the Council fails to decide on the arrangements necessary for the entry into force and operation of the definitive system (see below), the transitional arrangements will automatically be extended until the date of the entry into force of the definitive system or until the Council has decided on the definitive system.

9. The Council will decide by 31 December 1995 on the minimum standard rate which may be applied after 31 December 1996. From 1994 the Council will examine the scope of the reduced rates every two years.

10. Simplification of taxation arrangements for both traders and national authorities in respect of:

- transactions with third territories involving goods with the status of Community goods;
- intra-Community trade in goods subject to excise duties;
- supplies of services and goods that are taxable within a Member State on whose territory the trader is not established;
- the transition from the provisions in force until 31 December 1992 to those which entered into force on 1 January 1993.

11. Exemptions from tax for certain transactions within the country, on exportation outside the Community and on importation.

12. Right to deduct input tax: scope, implementing arrangements and calculation of the deductible proportion.

13. Under certain conditions Member States may introduce derogations in order to simplify the collection of VAT or prevent certain forms of tax evasion and avoidance.

14. Setting-up of an Advisory Committee on VAT.

*(4) Deadline for implementation of the legislation in the Member States*

- Directive 77/388/EEC: 23.5.1977
- Directive 80/368/EEC: 31.3.1980
- Regulation (EEC/Euratom) No 3308/80: not required
- Directive 84/386/EEC: 3.8.1984
- Directive 89/465/EEC: 1.1.1990, except for derogations
- Directive 91/680/EEC: 1.1.1993
- Directive 92/77/EEC: 9.11.1992
- Directive 92/111/EEC: 9.11.1992
- Directive 94/4/EC: 1.4.1994, except for derogations

*(5) Date of entry into force (if different from the above)*

- Directive 77/388/EEC: 31.12.1977
- Directive 84/386/EEC: 1.7.1985
- Directive 92/77/EEC: 31.12.1992
- Directive 92/111/EEC: 31.12.1992

(6) References

Official Journal L 145, 13.6.1977  
Official Journal L 90, 3.4.1980  
Official Journal L 345, 20.12.1980  
Official Journal L 208, 3.8.1984  
Official Journal L 226, 3.8.1989  
Official Journal L 276, 31.12.1991  
Official Journal L 316, 31.10.1992  
Official Journal L 384, 30.12.1992  
Official Journal L 197, 6.8.1993  
Official Journal L 60, 3.3.1994

Amended opinion

(7) Follow-up work

Exemptions from Directive 77/388/EEC:

- Council Decision 84/517/EEC (Official Journal L 285, 30.10.1984):  
France — applicable from 23 October 1984 to 31 December 1988;
- Council Decision 85/369/EEC (Official Journal L 199, 31.7.1985):  
United Kingdom — applicable from 13 June 1985;
- Council Decision 86/356/EEC (Official Journal L 212, 2.8.1986):  
United Kingdom — applicable from 23 March 1986;
- Council Decision 88/498/EEC (Official Journal L 269, 29.9.1988):  
Netherlands — applicable from 8 August 1988;
- Council Decision 89/466/EEC (Official Journal L 226, 3.8.1989):  
United Kingdom — applicable from 18 July 1989;
- Council Decision 89/487/EEC (Official Journal L 239, 16.8.1989):  
France — applicable from 1 August 1989;
- Council Decision 89/488/EEC (Official Journal L 239, 16.8.1989):  
France — applicable from 1 August 1989 to 31 December 1992;
- Council Decision 89/534/EEC (Official Journal L 280, 29.9.1989):  
United Kingdom — applicable from 24 May 1989;
- Council Decision 89/683/EEC (Official Journal L 398, 30.12.1989):  
France — applicable from 28 December 1989 to 31 December 1992;
- Council Decision 90/127/EEC (Official Journal L 73, 20.3.1990):  
United Kingdom — applicable from 14 March 1990 to 31 December 1992;
- Council Decision 90/497/EEC (Official Journal L 276, 6.10.1990):  
United Kingdom — applicable from 1 October 1990 to 31 December 1992;
- Council Decision 90/640/EEC (Official Journal L 349, 13.12.1990):  
Germany — applicable from 3 October 1990;
- Council Decision 92/543/EEC (Official Journal L 351, 2.12.1992):  
Germany — applicable from 23 November 1992 to 31 December 1995;
- Council Decision 92/544/EEC (Official Journal L 351, 2.12.1992):  
France — applicable from 23 November 1992 to 31 December 1996;
- Council Decision 92/545/EEC (Official Journal L 351, 2.12.1992):  
Netherlands — applicable from 23 November 1992 to 31 December 1996;
- Council Decision 92/546/EEC (Official Journal L 351, 2.12.1992):  
United Kingdom — applicable from 23 November 1992 to 31 December 1996;
- Council Decision 92/614/EEC (Official Journal L 408, 31.12.1992):  
Germany — applicable from 1 January 1993 to 31 December 1996;
- Council Decision 92/615/EEC (Official Journal L 408, 31.12.1992):  
Denmark — applicable from 1 January 1993 to 31 December 1996;
- Council Decision 92/616/EEC (Official Journal L 408, 31.12.1992):  
Spain — applicable from 1 January 1993 to 31 December 1996;
- Council Decision 92/617/EEC (Official Journal L 408, 31.12.1992):

- Ireland — applicable from 1 January 1993 to 31 December 1996;
- Council Decision 92/618/EEC (Official Journal L 408, 31.12.1992):
- Italy — applicable from 1 January 1993 to 31 December 1996;
- Council Decision 92/619/EEC (Official Journal L 408, 31.12.1992):
- Luxembourg — applicable from 1 January 1993 to 31 December 1996;
- Council Decision 92/620/EEC (Official Journal L 408, 31.12.1992):
- Netherlands — applicable from 1 January 1993 to 31 December 1996;
- Council Decision 92/621/EEC (Official Journal L 408, 31.12.1992):
- United Kingdom — applicable from 1 January 1993 to 31 December 1996;
- Council Decision 93/109/EEC (Official Journal L 43, 20.2.1993):
- France — applicable from 15 February 1993 to 31 December 1996;
- Council Decision 93/110/EEC (Official Journal L 43, 20.2.1993):
- France — applicable from 2 March 1993 to 31 December 1996;
- Council Decision 93/111/EEC (Official Journal L 43, 20.2.1993):
- United Kingdom — applicable from 15 February 1993 to 31 December 1996;
- Council Decision 93/204/EEC (Official Journal L 88, 8.4.1993):
- United Kingdom — applicable from 16 April 1993 to 31 December 1996;
- Council Decision 93/555/EEC (Official Journal L 273, 5.11.1993):
- Belgium — applicable from 3 November 1993 to 31 December 1994;
- Council Decision 93/556/EEC (Official Journal L 273, 5.11.1993):
- Denmark — applicable from 28 October 1993 to 31 December 1994;
- Council Decision 93/557/EEC (Official Journal L 273, 5.11.1993):
- France — applicable from 3 November 1993 to 31 December 1994;
- Council Decision 93/558/EEC (Official Journal L 273, 5.11.1993):
- Ireland — applicable from 28 October 1993 to 31 December 1994;
- Council Decision 93/559/EEC (Official Journal L 273, 5.11.1993):
- Italy — applicable from 28 October 1993 to 31 December 1994;
- Council Decision 93/560/EEC (Official Journal L 273, 5.11.1993):
- Luxembourg — applicable from 28 October 1993 to 31 December 1994;
- Council Decision 93/561/EEC (Official Journal L 273, 5.11.1993):
- Netherlands — applicable from 3 November 1993 to 31 December 1994;
- Council Decision 93/562/EEC (Official Journal L 273, 5.11.1993):
- Portugal — applicable from 28 October 1993 to 31 December 1994;
- Council Decision 93/563/EEC (Official Journal L 273, 5.11.1993):
- United Kingdom — applicable from 3 November 1993 to 31 December 1994;
- Council Decision 93/609/EEC (Official Journal L 273, 5.11.1993):
- United Kingdom — applicable from 1 January 1993 to 31 December 1996;
- Council Decision 94/8/EC (Official Journal L 7, 11.1.1994):
- Germany — applicable from 22 December 1993 to 31 December 1994.

On 14 February 1994 the Council adopted Directive 94/5/EC supplementing the system of value added tax and amending Directive 77/388/EEC — Special arrangements applicable to second-hand goods, works of art, collectors' items and antiques (Official Journal L 60, 3.3.1994) (summary 3.4).

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This Directive lays down special VAT arrangements for second-hand goods, works of art, collectors' items and antiques which will enter into force on 1 January 1995.

On 30 September 1986 the Commission presented a proposal for a Directive amending Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes in respect of the common value added tax scheme applicable to small and medium-sized businesses (COM(86) 444 final — Official Journal C 272, 28.10.1986).

The object of this proposal is to simplify the operation of the VAT system applicable to small and medium-sized businesses and to bring national schemes more closely into line with each other.

The Commission presented an amended proposal on 29 October 1987 (COM(87) 524 final — Official Journal C 310, 20.11.1987).

On 2 July 1992 the Commission presented a proposal for a Directive on the harmonization of the laws of the Member States relating to turnover taxes — Abolition of certain derogations provided for in Article 28(3) of Directive 77/388/EEC and in the second subparagraph of Article 1(1) of Directive 89/465/EEC (COM(92) 215 final — Official Journal C 205, 13.8.1992) (summary 3.7).

This proposal is aimed at revising and limiting, as from 1 January 1993, the derogations from the common system of VAT granted to Member States in respect of the basis of assessment of the tax with a view to moving closer to the objective of a uniform basis of assessment.

On 2 August 1993 the Commission presented an amended proposal (COM(93) 398 final — Official Journal C 231, 27.8.1993).

On 30 September 1992 the Commission presented a proposal for a Directive amending Directive 77/388/EEC as regards the value added tax arrangements applicable to passenger transport (COM(92) 416 final — Official Journal C 307, 25.11.1992) (summary 3.8).

This proposal is aimed at abolishing frontier controls carried out for the purpose of levying VAT on passenger transport services by establishing the principle of taxation in the country of departure as from 1 January 1993. As regards the rates applicable, the Commission proposes maintaining all existing provisions on a transitional basis.

On 21 January 1993 the European Parliament approved the proposal subject to certain amendments. The Commission accepted some of these amendments.

On 27 October 1992, the Commission presented a proposal for a Directive supplementing the common system of value added tax and amending Directive 77/388/EEC — Special scheme for gold (COM(92) 441 final — Official Journal C 302, 19.11.1992) (summary 3.9). This proposal is aimed at introducing a zero rate of VAT for investment gold.

On 9 March 1994 the Commission presented a proposal for a Directive amending Directive 77/388/EEC and introducing new simplification measures with regard to value added tax — scope of certain exemptions and practical arrangements for implementing them (COM(94) 58 final — Official Journal C 107, 15.4.1994).

This proposal is aimed at simplifying the tax treatment of:

— transactions, particularly chain transactions, carried out under warehousing arrangements other than customs warehousing;

- supplies of goods transport and ancillary services where they are directly linked to the importation of goods or an intra-Community transport operation;
- supplies of goods to be transported outside the Community in the personal luggage of travellers;
- supplies of goods and services for the benefit of bodies covered by international conventions or treaties.

On 3 June 1994 the Commission presented a proposal for a Decision authorizing the Kingdom of Spain to apply a special measure derogating from Articles 2(1) and 17 of the sixth Directive (77/388/EEC) on the harmonization of the laws of the Member States relating to turnover taxes (COM(94) 224 final). This proposal is designed to exempt certain services supplied to taxable persons not established in Spain but identified for tax purposes in the Community, in respect of which those taxable persons would in any event be entitled to a refund of VAT.

*(8) Commission  
implementing  
measures*

### 3. INDIRECT TAXATION

#### 3.4. Value added tax: common VAT scheme: special arrangements applicable to second-hand goods, works of art, antiques and collector's items (proposal for a seventh VAT Directive)

- (1) *Objective* To supplement the common system of VAT by establishing Community tax arrangements applicable to second-hand goods, works of art, collectors' items and antiques.
- (2) *Community measures* Council Directive 94/5/EC of 14 February 1994 supplementing the common system of value added tax and amending Directive 77/388/EEC — Special arrangements applicable to second-hand goods, works of art, collectors' items and antiques.
- (3) *Contents*
1. The Directive lays down for second-hand goods, works of art, collectors' items and antiques, as defined in Annex I:
    - special arrangements for taxable dealers;
    - special arrangements for sales by public auction;
    - some transitional arrangements.
  2. Special arrangements for taxable dealers:
    - the Directive covers supplies, by a taxable dealer, of such goods supplied to him within the Community by a non-taxable person, by another taxable person who is not entitled to a deduction or by a taxable dealer;
    - the taxable amount of the supplies of goods is the profit margin made by the taxable dealer, less the amount of value added tax relating to the profit margin. That profit margin is equal to the difference between the selling price charged by the taxable dealer for the goods and the purchase price.
  3. Special arrangements for sales by public auction:
    - Member States are free to determine the taxable amount of supplies of goods covered by the Directive effected under certain conditions by an organizer of sales by public auction on behalf of a non-taxable person, another taxable person or a taxable dealer;
    - the taxable amount of the supply of goods is the total amount invoiced to the purchaser by the organizer of the sale by public auction, less:
      - the net amount paid or to be paid by the organizer of the sale to his principal; and
      - the amount of the tax due by the organizer of the sale in respect of his supply.
  4. Transitional arrangements for the taxation of trade between Member States applicable until 31 December 1996:
    - supplies of new means of transport are excluded from the special arrangements provided for by the Directive;
    - intra-Community acquisitions of goods covered by the Directive are not subject to VAT where the vendor is a taxable dealer or an organizer of sales by public auction and the supply has been subject to the arrangements for taxing the margin in the Member State of departure of the dispatch or transport.
  5. Transitional provisions:
    - Member States which at 31 December 1992 were applying special tax arrangements other than those provided for in the Directive to supplies of second-hand means of transport effected by taxable

- dealers may continue to apply those arrangements, duly adjusted, until 31 December 1996;
- Denmark is authorized to apply those arrangements, duly adjusted, until 31 December 1996;
  - the United Kingdom may apply, until 30 June 1999, an effective VAT rate of 2.5% instead of 5% to imports of works of art, collectors' items or antiques which benefited from an exemption under national legislation at 1 January 1993;
  - the Federal Republic of Germany is authorizing its taxable dealers to apply either the special arrangements for taxable dealers on special conditions (total amount and reduced rate) or the normal VAT arrangements for supplies of works of art, collectors' items and antiques until 30 June 1999.
6. Member States may, with the agreement of the Council, introduce particular measures to combat fraud.

*(4) Deadline for implementation of the legislation in the Member States*

1.1.1995

*(5) Date of entry into force (if different from the above)*

*(6) References*

Official Journal L 60, 3.3.1994

*(7) Follow-up work*

*(8) Commission implementing measures*

### 3. INDIRECT TAXATION

#### 3.5. Value added tax: common VAT scheme: non-deductible expenditure (proposal for a 12th VAT Directive)

<i>(1) Objective</i>	To harmonize Member States' value added tax systems regarding the treatment of business expenditure.								
<i>(2) Proposal</i>	Proposal for a 12th Council Directive on the harmonization of the laws of the Member States relating to turnover taxes — common system of value added tax: expenditure not eligible for deduction of value added tax.								
<i>(3) Contents</i>	<ol style="list-style-type: none"><li>1. Value added tax on expenditure relating to aircraft and pleasure boats will not be deductible.</li><li>2. Value added tax on expenditure relating to passenger cars and motor cycles will be 50% deductible four years after entry into force of the Directive. Within two years of that date, Member States will have to fix the deductible percentage between 25 and 75%.</li><li>3. Full deduction will be permitted where such vehicles and craft are used for carriage for hire or reward, for training or instruction, for hiring out or where they form part of the stock-in-trade for a business.</li><li>4. Value added tax on transport expenses of taxable persons (business travel) and their staff will be subject to the same rules and to the same timetable as specified in point 2 above.</li><li>5. Value added tax on expenditure on accommodation, food and drink will not be deductible, except where the supply of these is the taxable person's business or where they are supplied free of charge to security or caretaking staff on business premises.</li><li>6. Value added tax on expenditure on amusements and luxuries will not be deductible.</li></ol>								
<i>(4) Opinion of the European Parliament</i>	Parliament approved the Commission's proposal subject to a number of amendments designed to clarify the scope of the right to deduct VAT.								
<i>(5) Current status of the proposal</i>	<p>Consultation procedure</p> <p>The Commission presented the proposal on 25 January 1983.</p> <p>On 17 November 1983 Parliament approved the Commission proposal subject to amendments. The Commission has accepted all the amendments.</p> <p>The Commission presented an amended proposal on 20 February 1984.</p> <p>The Commission's amended proposal is currently before the Council for adoption.</p>								
<i>(6) References</i>	<table><tr><td>Commission proposal COM(82) 870 final</td><td>Official Journal C 37, 10.2.1983</td></tr><tr><td>Amended proposal COM(84) 84 final</td><td>Official Journal C 56, 29.2.1984</td></tr><tr><td>European Parliament opinion Economic and Social Committee opinion</td><td>Official Journal C 342, 19.12.1983</td></tr><tr><td></td><td>Official Journal C 206, 6.8.1984</td></tr></table>	Commission proposal COM(82) 870 final	Official Journal C 37, 10.2.1983	Amended proposal COM(84) 84 final	Official Journal C 56, 29.2.1984	European Parliament opinion Economic and Social Committee opinion	Official Journal C 342, 19.12.1983		Official Journal C 206, 6.8.1984
Commission proposal COM(82) 870 final	Official Journal C 37, 10.2.1983								
Amended proposal COM(84) 84 final	Official Journal C 56, 29.2.1984								
European Parliament opinion Economic and Social Committee opinion	Official Journal C 342, 19.12.1983								
	Official Journal C 206, 6.8.1984								



### 3. INDIRECT TAXATION

#### 3.6. Value added tax: common VAT scheme: common value added tax scheme applicable to small and medium-sized businesses (proposal for a 22nd VAT Directive)

- (1) *Objective* To simplify the operation of the VAT system for small and medium-sized businesses and to bring individual Member State schemes closer into line with each other.
- (2) *Proposal* Proposal for a Council Directive amending Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes in respect of the common value added tax scheme applicable to small and medium-sized businesses.
- (3) *Contents*
1. Businesses that have an annual turnover of less than ECU 10 000 are to be VAT exempt. Businesses with an annual turnover of less than ECU 35 000 may be eligible for exemption at the option of the individual Member States.
  2. A simplified scheme for charging and collecting VAT is to be introduced for businesses having an annual turnover of less than ECU 200 000.
  3. These simplified schemes will work on the basis of annual returns and monthly or quarterly advance payments.
  4. The ceilings for exemption and eligibility for the simplified schemes will be revised annually by the Commission to maintain their values in real terms.
  5. The equivalents in national currencies of the amounts expressed in ecus will be fixed annually by the Commission.
- (4) *Opinion of the European Parliament* Parliament approved the proposal subject to some Recommendations for amendment. These included: the ceiling for the simplified scheme to be raised to ECU 200 000 (amendment accepted by the Commission); the optional tax exemption to be reviewed within two years; and the Member States to be able to introduce graduated tax relief for businesses with a turnover of up to ECU 35 000.
- (5) *Current status of the proposal*
- Consultation procedure
- The Commission presented the proposal on 30 September 1986.
- Parliament approved the Commission proposal subject to amendments. The Commission has accepted some of the amendments.
- The Commission presented an amended proposal on 29 October 1987.
- The proposal is currently before the Council for adoption.
- (6) *References*
- |                                       |                                    |
|---------------------------------------|------------------------------------|
| Commission proposal                   |                                    |
| COM(86) 444 final                     | Official Journal C 272, 28.10.1986 |
| Amended proposal                      |                                    |
| COM(87) 524 final                     | Official Journal C 310, 20.11.1987 |
| European Parliament opinion           | Official Journal C 190, 20.7.1987  |
| Economic and Social Committee opinion | Official Journal C 83, 30.3.1987   |

### 3. INDIRECT TAXATION

#### 3.7. Value added tax: common VAT scheme: abolition of derogations from the uniform basis of assessment

<i>(1) Objective</i>	To establish a uniform basis of assessment for VAT and to eliminate distortions of competition arising from the derogations applied or likely to be applied pursuant to the measures adopted for completing the internal market.
<i>(2) Proposal</i>	Proposal for a Council Directive on the harmonization of the laws of the Member States relating to turnover taxes — Abolition of certain derogations provided for in Article 28(3) of Directive 77/388/EEC and in the second subparagraph of Article 1(1) of Directive 89/465/EEC.
<i>(3) Contents</i>	<p>1. As from 1 January 1993, when the transitional VAT arrangements provided for in Council Directive 91/680/EEC come into force (summary 3.10), this proposal for a Directive is designed:</p> <ul style="list-style-type: none"><li>— to reduce appreciably the number of derogations not abolished by the 18th Council Directive 89/465/EEC (summary 3.3);</li><li>— to abolish the derogations extended by that same Directive;</li><li>— to give each Member State the option of granting exemption in the following fields:<ul style="list-style-type: none"><li>— admission to all or some sporting events;</li><li>— services supplied by undertakers and cremation services, together with goods related thereto;</li><li>— transactions carried out by blind persons or workshops for the blind provided these exemptions do not give rise to distortion of competition;</li><li>— supplies of goods and services to official bodies responsible for the construction, setting out and maintenance of cemeteries, graves and monuments commemorating war dead;</li></ul></li><li>— to abolish the exemption of non-commercial activities of public radio and television bodies, while at the same time authorizing those Member States which currently exempt such activities to continue to do so. The Council will be asked to decide on this derogation on the basis of a Commission proposal presented before 31 December 1996.</li></ul> <p>2. The following derogations are not covered and will be the subject of separate proposals for Directives:</p> <ul style="list-style-type: none"><li>— services supplied by travel agents;</li><li>— transactions of hospitals (private clinics);</li><li>— passenger transport and the transport of goods connected with passenger transport;</li><li>— transactions concerning gold other than gold for industrial use.</li></ul>
<i>(4) Opinion of the European Parliament</i>	Parliament approved the proposal subject to amendments designed to postpone abolition of the derogations on 1 January 1993 as provided for in the proposal.
<i>(5) Current status of the proposal</i>	Consultation procedure The Commission presented the proposal on 2 July 1992.

On 19 January 1993 Parliament approved the Commission proposal subject to amendments. The Commission has accepted some of the amendments.

The Commission presented an amended proposal on 2 August 1993. The amended proposal is currently before the Council for a common position.

*(6) References*

Commission proposal COM(92) 215 final	Official Journal C 205, 13.8.1992
Amended proposal COM(93) 398 final	Official Journal C 231, 27.8.1993
European Parliament opinion Economic and Social Committee opinion	Official Journal C 42, 15.2.1993
	Official Journal C 332, 16.12.1992

### 3. INDIRECT TAXATION

#### 3.8. Value added tax: common VAT scheme: special arrangements applicable to passenger transport

<i>(1) Objective</i>	To amend, following the removal of frontier controls, the rules of territorial application relating to certain passenger transport services effected by road or by inland waterway.						
<i>(2) Proposal</i>	Proposal for a Council Directive amending Directive 77/388/EEC regarding the value added tax arrangements applicable to passenger transport.						
<i>(3) Contents</i>	<p>1. This proposal relates solely to passenger transport by road and by inland waterway.</p> <p>2. It provides for a changeover to taxation in the country of departure, in anticipation of the definitive VAT arrangements. Where a journey involves several successive transport services, the 'place of departure' is deemed to be the place where each of these services starts, provided that they are not separated by transit stops.</p> <p>3. The taxable amount is determined applying the general rules. However, where several services are provided for an all-in price, the taxable amount is to be determined on the basis of a flat-rate breakdown of the price with reference to elements such as the distance relating to each service. Traffic to a third country is exempt, with input tax being deductible. In the case of traffic from a third country, the journeys do not start in a Member State and are therefore not subject to VAT.</p> <p>4. The Commission undertakes to present by the end of 1994 a report that will examine the tax arrangements for all forms of passenger transport, paying attention to the risks of distortion of competition between different modes of transport and to the situation with regard to rail transport which, because of its speed, could compete directly with air transport.</p>						
<i>(4) Opinion of the European Parliament</i>	Parliament approved the proposal subject to amendments providing in particular for subsequent harmonized reduced or zero-rate taxation of all modes of collective passenger transport.						
<i>(5) Current status of the proposal</i>	<p>Consultation procedure</p> <p>The Commission presented the proposal on 30 September 1992.</p> <p>On 21 January 1993 Parliament approved the Commission proposal subject to amendments. The Commission has accepted some of the amendments.</p> <p>An amended proposal incorporating the amendments proposed by Parliament and accepted by the Commission is awaited.</p>						
<i>(6) References</i>	<table><tr><td>Commission proposal COM(92) 416 final</td><td>Official Journal C 307, 25.11.1992</td></tr><tr><td>European Parliament opinion Economic and Social Committee opinion</td><td>Official Journal C 42, 15.2.1993</td></tr><tr><td></td><td>Official Journal C 19, 25.1.1993</td></tr></table>	Commission proposal COM(92) 416 final	Official Journal C 307, 25.11.1992	European Parliament opinion Economic and Social Committee opinion	Official Journal C 42, 15.2.1993		Official Journal C 19, 25.1.1993
Commission proposal COM(92) 416 final	Official Journal C 307, 25.11.1992						
European Parliament opinion Economic and Social Committee opinion	Official Journal C 42, 15.2.1993						
	Official Journal C 19, 25.1.1993						

### 3. INDIRECT TAXATION

#### 3.9. Value added tax: common VAT scheme: special scheme for gold

(1) <i>Objective</i>	To supplement the uniform basis of assessment for VAT in the Community by introducing a special scheme for gold.						
(2) <i>Proposal</i>	Proposal for a Council Directive supplementing the common system of value added tax and amending Directive 77/388/EEC — special scheme for gold.						
(3) <i>Contents</i>	<p>1. The Directive makes a distinction between two types of gold :  — investment gold is gold, including pieces quoted on one of the markets in the Community, which is sold without giving rise to the physical delivery of the metal and provided that the sale is carried out by licensed professionals ;  — gold other than investment gold is, by contrast, gold which does not meet one or other of the above conditions.</p> <p>2. Whether investment gold or not, the Directive applies to gold of a purity equal to or greater than 900 thousandths.</p> <p>3. Scheme for investment gold  The Directive provides for the introduction of a zero rate of VAT for investment gold so as not to impede the flow of purely financial transactions. This exemption also avoids the risk of gold being diverted to third countries and makes it easier to monitor commercial flows and to keep gold in the legal circuit.</p> <p>4. By contrast, gold other than investment gold (e.g. gold which is physically delivered either to private investment firms or for purposes of industrial or commercial use) is subject to the normal VAT scheme. However, with a view to avoiding risks of fraud, the proposal allows Member States, where sales between taxable persons are concerned, to levy VAT on the purchaser, and not on the seller (reverse-charge mechanism). Member States will be able to apply this mechanism throughout the transitional period, i.e. until 1 January 1997.</p> <p>5. Where gold is sold by a private individual to a taxable person who then resells it, the proposal provides for the tax to be refunded to the private individual.</p>						
(4) <i>Opinion of the European Parliament</i>	Parliament approved the Commission's proposal subject to certain amendments relating to the scope of the proposal, the definition of investment gold and the monitoring of gold transactions.						
(5) <i>Current status of the proposal</i>	<p>Consultation procedure</p> <p>The Commission presented the proposal for a Directive on 27 October 1992.</p> <p>On 10 March 1994 Parliament approved the Commission proposal subject to amendments. The Commission has accepted some of the amendments.</p> <p>An amended proposal incorporating the amendments proposed by Parliament and accepted by the Commission is awaited.</p>						
(6) <i>References</i>	<table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Commission proposal</td> <td>Official Journal C 302, 19.11.1992</td> </tr> <tr> <td>COM(92) 441 final</td> <td>Not yet published</td> </tr> <tr> <td>European Parliament opinion</td> <td></td> </tr> </table>	Commission proposal	Official Journal C 302, 19.11.1992	COM(92) 441 final	Not yet published	European Parliament opinion	
Commission proposal	Official Journal C 302, 19.11.1992						
COM(92) 441 final	Not yet published						
European Parliament opinion							

### 3. INDIRECT TAXATION

#### 3.10. Value added tax: exemption from VAT: final importation of goods

*(1) Objective*

To lay down different Community tax rules governing exemption from VAT on the final importation of goods according to whether such goods come from third countries or from other Member States.

*(2) Community measures*

Council Directive 83/181/EEC 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.

Amended by the following measures:  
Council Directive 85/346/EEC of 8 July 1985;  
Council Directive 88/331/EEC of 13 June 1988;  
Commission Directive 89/219/EEC of 7 March 1989;  
Council Directive 91/680/EEC of 16 December 1991.

*(3) Contents*

1. The following text contains a consolidation of existing Directives in this field.
2. These Directives define the scope of the exemptions from VAT and the practical arrangements for their implementation referred to in Council Directive 77/388/EEC (summary 3.3).
3. The exemptions are only granted by Member States, under conditions laid down by them, if they entail no distortion of competition or evasion of tax.
4. Conditions governing exemption on the importation of personal property belonging to individuals coming from third countries:
  - personal property belonging to natural persons transferring their normal place of residence from a third country to the Community;
  - goods imported on the occasion of a marriage;
  - personal property acquired by inheritance.
5. Conditions governing exemption on importation of school outfits, scholastic materials and other scholastic household effects.
6. Conditions governing exemption on the importation of:
  - capital goods and equipment imported on the transfer of activities;
  - goods of negligible value (not exceeding ECU 10);
  - certain agricultural products or products intended for agricultural use;
  - therapeutic substances, medicines, laboratory animals and biological or chemical substances;
  - goods for charitable or philanthropic organizations;
  - goods imported in the context of international relations;
  - goods for the promotion of trade;
  - goods imported for examination, analysis or test purposes;
  - various documents intended for official bodies;
  - fuel and lubricants present in land motor vehicles and in special containers.
7. Each Member State is authorized to maintain agreements concluded with third countries that provide for special exemptions.
8. For some of the abovementioned fields, certain goods are excluded from exemption, in particular alcoholic and tobacco products.

*(4) Deadline for implementation of the legislation in the Member States*

- Directive 83/181/EEC: 12.4.1983
- Directive 85/346/EEC: 12.7.1985
- Directive 88/331/EEC: 21.6.1988
- Directive 89/219/EEC: 14.3.1989
- Directive 91/680/EEC: 1.1.1993

*(5) Date of entry into force (if different from the above)*

- Directive 83/181/EEC: 1.7.1984
- Directive 85/346/EEC: 1.10.1985
- Directive 88/331/EEC: 1.1.1989
- Directive 89/219/EEC: 1.7.1989

*(6) References*

Official Journal L 105, 23.4.1983  
 Official Journal L 183, 16.7.1985  
 Official Journal L 151, 17.6.1988  
 Official Journal L 92, 5.4.1989  
 Official Journal L 376, 31.12.1991

*(7) Follow-up work*

*(8) Commission implementing measures*

### 3. INDIRECT TAXATION

#### 3.11. Value added tax: refund of VAT: taxable persons not established in the country

<i>(1) Objective</i>	To introduce Community arrangements for the refund of VAT to taxable persons not established in the territory of the country.
<i>(2) Community measures</i>	Eighth Council Directive 79/1072/EEC 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.
<i>(3) Contents</i>	<ol style="list-style-type: none"><li>1. The Directive concerns taxable persons established not in the territory of the country but in another Member State. A taxable person is deemed to be any person as defined for the purposes of Council Directive 77/388/EEC (summary 3.3).</li><li>2. A taxable person is caught by the Directive if, during a period of not less than three months or not more than one calendar year or during a period of less than three months where that period represents the remainder of a calendar year, he:<ul style="list-style-type: none"><li>— has had in that country:<ul style="list-style-type: none"><li>— neither the seat of his economic activity nor a fixed establishment from which business transactions are effected;</li><li>— nor, if no such seat or fixed establishment exists, his domicile or normal place of residence;</li></ul></li><li>— has supplied no goods or services in that country, with the exception of:<ul style="list-style-type: none"><li>— transport services and services ancillary to transport services;</li><li>— services in cases where tax is payable by the person to whom they are supplied.</li></ul></li></ul></li><li>3. Member States are to refund to the taxable persons concerned:<ul style="list-style-type: none"><li>— VAT charged in respect of services or movable property supplied to him by other taxable persons in the territory of the country;</li><li>— VAT charged in respect of the importation of goods into the country in so far as such goods are necessary for their business activities or in respect of taxed services supplied to the customer.</li></ul></li><li>4. Conditions governing refund applications.</li><li>5. The right to a refund is determined in accordance with Directive 77/388/EEC.</li><li>6. Supplies of exempt goods or goods which may be exempted under the aforementioned Directive do not qualify for a refund.</li><li>7. The supply of goods dispatched or transported 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 any means of transport for private use, is exempt.</li><li>8. The treatment of taxable persons not established in the territory of the Community is governed by the 13th VAT Council Directive 86/560/EEC (summary 3.12).</li></ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	1.1.1981 except for derogation.





*(5) Date of entry into force (if different from the above)*

*(6) References*

*(7) Follow-up work*

*(8) Commission implementing measures*

Official Journal L 331, 27.12.1979

### 3. INDIRECT TAXATION

#### 3.12. Value added tax: refund of VAT: refunds to non-EEC taxable persons (13th VAT Directive)

<i>(1) Objective</i>	To harmonize further Member State legislation concerning VAT refunds to taxable persons outside the EEC.
<i>(2) Community measures</i>	13th Council Directive 86/560/EEC of 17 November 1986 on the harmonization of the laws of the Member States relating to turnover tax arrangements for the refund of value added tax to taxable persons not established in Community territory.
<i>(3) Contents</i>	<p>1. A taxable person not established in the territory of the Community is defined as someone who has not had a business address, or a permanent place of residence in a Member State during a period of time to be determined by the Member State, and has not supplied any goods or services in that Member State with the exception of transport services or those on which tax is payable by the customer alone.</p> <p>2. In general, Member States will refund any VAT paid by a non-EC taxable person on goods or services supplied by a taxable individual in the territory of the Community. Such refunds may be made conditional on third countries agreeing to take comparable measures (reciprocity).</p> <p>3. Refunds have to be applied for by the non-EEC taxable person. Member States will determine the practical arrangements for claiming these refunds, e.g. time-limits or minimum amounts. They may also require the appointment of a tax representative. They will take all necessary steps to prevent fraud.</p> <p>4. These refunds must not be made on more favourable conditions than those made to taxable persons established in the EEC.</p> <p>5. Eligibility for refunds will be determined according to the domestic rules of the Member States for VAT deductions, although certain expenditures may be excluded or certain conditions imposed.</p>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	1.1.1988
<i>(5) Date of entry into force (if different from the above)</i>	
<i>(6) References</i>	Official Journal L 326, 21.11.1986
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	

### 3. INDIRECT TAXATION

#### 3.13. Value added tax: tax on carbon dioxide emissions and energy

- (1) *Objective* To limit the emission of greenhouse gases and promote efficient use of energy by introducing in the Member States, an additional harmonized tax on carbon dioxide emissions and energy content.
- (2) *Proposal* Proposal for a Council Directive introducing a tax on carbon dioxide emissions and energy.
- (3) *Contents*
1. The Directive will apply in the territory of the Community as defined by the Treaty, except for some parts of certain Member States.
  2. The tax is to be levied on the following products used as motor or heating fuels, whether in crude or processed form:
    - coal, lignite, peat and their derivatives;
    - natural gas;
    - mineral oils;
    - ethyl and methyl alcohol obtained by distillation from fossil fuels;
    - electricity and heat generated in hydroelectric installations with a capacity of over 10 MW or in nuclear power stations.
  3. The tax does not apply to raw materials or renewable sources of energy.
  4. The features of the tax are:
    - it is to be introduced at Community level but levied by the Member States;
    - the chargeable event is to be:
      - extraction or production on the territory of the Community;
      - or importation;
    - the tax is to be chargeable when the taxable products are released for consumption or when shortages are recorded;
    - it is to borrow from the arrangements for excise duties the rules on product movement and monitoring in respect of mineral oils, with special provisions for the other products;
    - 50% of the taxable amount is to be based on the products' carbon content and 50% on their energy content;
    - the tax is to be additional to existing excise duties harmonized at Community level;
    - the rate is to be common to all Member States and is to vary by product on the basis of ECU 17.70 per TOE;
    - Member States are to be free to apply higher rates.
  5. The Directive will take into account:
    - the situation of energy-intensive firms by including additional provisions (reductions and exemptions) in order to safeguard the competitiveness of industry;
    - the need to save energy and reduce carbon gas emissions by allowing Member States to introduce, subject to Community competition rules, tax incentives for new investment in this field.
  6. The Member States may be authorized by the Council, acting unanimously on a proposal from the Commission, to suspend temporarily the application of the tax in response to economic problems or progress made in stabilizing carbon dioxide emissions.

7. The entry into force of the tax is to be conditional on a similar tax or measures having an equivalent financial impact being brought in by other OECD countries and is to be decided on by the Council, acting by qualified majority.
8. The carbon dioxide tax is to be based on the principle of tax neutrality and be offset in full, as soon as it is introduced, by tax incentives or reductions in direct taxes and other statutory contributions.
9. A Committee on the carbon dioxide/energy tax is to be set up which will take part in preparing the measures for the application of the Directive.
10. After three years the Commission is to present to the Council a report on the operation of the tax system.
11. The arrangements for granting tax exemptions, reductions and refunds and those for tax incentives are to be reviewed every three years.

*(4) Opinion of the European Parliament*

Not yet delivered.

*(5) Current status of the proposal*

Consultation procedure

The Commission presented the proposal on 27 May 1992.

The proposal is currently before Parliament for its opinion.

*(6) References*

Commission proposal  
COM(92) 226 final  
Economic and Social  
Committee opinion

Official Journal C 196, 3.8.1992

Official Journal C 108, 19.4.1993

### 3. INDIRECT TAXATION

#### 3.14. Excise duties: general arrangements, holding and movement of excise duty products

- (1) *Objective* To harmonize at Community level the general arrangements for products subject to excise duty in order to ensure that they are able to move freely.
- (2) *Community measures* Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products.
- Amended by Council Directive 92/108/EEC of 14 December 1992.
- (3) *Contents*
1. The following text contains a consolidation of the Directives.
  2. Definition of the territory within which the Directive in question and the specific Directives on the rates and structures of duty on products subject to excise duties are applicable.
  3. The products covered by the Directives are mineral oils, alcohol and alcoholic beverages, and manufactured tobacco. They may be subject to other indirect taxes levied for specific purposes.
  4. Member States retain the right to introduce or maintain indirect taxes levied on products other than those mentioned above provided that those taxes do not give rise to border-crossing formalities.
  5. Conditions governing the chargeability of excise duties.
  6. Country in which the excise duty is chargeable:
    - products released for consumption in one Member State and held for commercial purposes in another Member State are subject to excise duty in the Member State in which they are held;
    - products acquired by private individuals for their own use and transported by them are taxed in the Member State in which they are acquired;
    - products purchased by persons who are not authorized warehousekeepers or registered or non-registered traders and dispatched or transported directly or indirectly by the vendor or on his behalf are subject to excise duty in the Member State of destination.
  7. Each Member State determines its rules concerning the production, processing and holding of products subject to excise duty, subject to the provisions of the Directives in question. Where excise duty has not been paid, the production, processing and holding of products are monitored under the tax warehousing arrangements.
  8. Procedure for the movement of products referred to by the Directive in question under suspension arrangements: the tax authorities in the Member States are informed by traders that carry out or receive supplies on the basis of an administrative or commercial accompanying document.
  9. Products are exempt from excise duty in particular:
    - when they are intended for delivery under agreements concluded by the Member States with other countries or international organizations;
    - where products are supplied, subject to the limits laid down, by duty-free shops to travellers moving between Member States, until 30 June 1999.

10. Derogations for Denmark until 31 December 1996 for spirits and manufactured tobacco.

11. Small wine producers may be exempted from certain requirements under the general arrangements for excise duty.

12. Establishment of a Committee on Excise Duties with the task of examining the Community measures necessary to implement the provisions on excise duties.

*(4) Deadline for implementation of the legislation in the Member States*

— Directive 92/12/EEC: 1.1.1993  
— Directive 92/108/EEC: 1.1.1993

*(5) Date of entry into force (if different from the above)*

*(6) References*

Official Journal L 76, 23.3.1992  
Official Journal L 390, 31.12.1992

*(7) Follow-up work*

*(8) Commission implementing measures*

— Regulation (EEC) No 2719/91 — Official Journal L 276, 19.9.1992  
Commission Regulation of 11 September 1992 on the accompanying administrative document for the movement under duty-suspension arrangements of products subject to excise duty.

This Regulation contains a specimen of the administrative document (Annex I) that is to accompany products subject to excise duty when they move under duty-suspension arrangements.

It was amended by Commission Regulation (EEC) No 2225/93 of 27 July 1993 (Official Journal L 198, 7.8.1993).

— Regulation (EEC) No 3649/92 — Official Journal L 369, 18.12.1992  
Commission Regulation of 17 December 1992 on a simplified accompanying document for the intra-Community movement of products subject to excise duty which have been released for consumption in the Member State of dispatch.

This Regulation establishes the form and content of the accompanying document with a view to guaranteeing the functioning of the arrangements for the movement of goods within the single market.

### 3. INDIRECT TAXATION

#### 3.15. Excise duties: manufactured tobacco: harmonization of structures

- (1) Objective* To harmonize at Community level the structures of excise duties on manufactured tobacco.
- (2) Community measures* Council Directive 72/464/EEC of 19 December 1972 on taxes other than turnover taxes which affect the consumption of manufactured tobacco.
- Amended by the following measures:  
 Council Directive 74/318/EEC of 25 June 1974;  
 Council Directive 75/786/EEC of 18 December 1975;  
 Council Directive 76/911/EEC of 21 December 1976;  
 Council Directive 77/805/EEC of 19 December 1977;  
 Council Directive 80/369/EEC of 26 March 1980;  
 Council Directive 80/1275/EEC of 22 December 1980;  
 Council Directive 86/246/EEC of 16 June 1986;  
 Council Directive 92/78/EEC of 19 October 1992.
- (3) Contents*
1. The following text contains a consolidation of the Directives.
  2. The Directives harmonize in two stages the rules governing taxation of the consumption of manufactured tobacco. The transition from the first to the second stage is decided by the Council, acting on a proposal from the Commission.
  3. The groups of manufactured tobacco concerned are those defined by Council Directive 79/32/EEC of 18 December 1978 (summary 3.16).
  4. Provisions concerning cigarettes:
    - cigarettes are subject to a proportional excise duty calculated on the basis of the maximum retail selling price, coupled with a specific excise duty the amount of which is fixed by each Member State in accordance with Community criteria;
    - the rate of the proportional excise duty and the amount of the specific excise duty are the same for all cigarettes;
    - at the final stage of harmonization, the spread of retail selling prices is to reflect the spread of manufacturers' selling prices.
  5. The maximum retail selling prices are generally determined by manufacturers established in the Community or their authorized agents and by importers from non-member countries in accordance with the national legislation relating to price controls. Member States may also draw up a list of retail selling prices for each group of manufactured tobacco.
  6. Arrangements for collecting excise duty.
  7. Exemption from, or refund of, excise duty for certain types of manufactured tobacco.
  8. Temporary derogation for the United Kingdom as regards the additional excise duty on cigarettes with a tar content in smoke of not less than 20 mg.
- (4) Deadline for implementation of the legislation in the Member States*
- Directive 72/464/EEC: 1.7.1973
  - Directive 74/318/EEC: 1.4.1974
  - Directive 75/786/EEC: 19.12.1975
  - Directive 76/911/EEC: 23.12.1976
  - Directive 77/805/EEC: 23.12.1977
  - Directive 80/369/EEC: 31.3.1980

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- Directive 80/1275/EEC: 31.12.1980
  - Directive 86/246/EEC: 1.1.1986
  - Directive 92/78/EEC: 31.12.1992

*(5) Date of entry into force (if different from the above)*

*(6) References*

Official Journal L 303, 31.12.1972  
Official Journal L 180, 3.7.1974  
Official Journal L 330, 24.12.1975  
Official Journal L 354, 24.12.1976  
Official Journal L 338, 28.12.1977  
Official Journal L 90, 3.4.1980  
Official Journal L 375, 31.12.1980  
Official Journal L 164, 20.6.1986  
Official Journal L 316, 31.10.1992

*(7) Follow-up work*

*(8) Commission implementing measures*



### 3. INDIRECT TAXATION

#### 3.16. Excise duties: manufactured tobacco: definition of the various groups of manufactured tobacco

- |  |   |
|--|---|
| <i>(1) Objective</i>   | To define the various groups of manufactured tobacco.   |
| <i>(2) Community measures</i>  | <p>Second Council Directive 79/32/EEC of 18 December 1978 on taxes other than turnover taxes which affect the consumption of manufactured tobacco.</p> <p>Amended by the following measures:<br/>         Council Directive 80/369/EEC of 26 March 1980;<br/>         Council Directive 92/78/EEC of 19 October 1992.</p>   |
| <i>(3) Contents</i>  | <p>1. The following text contains a consolidation of the Directives.</p> <p>2. For the purpose of applying Article 3(2) of Directive 72/464/EEC (summary 3.15), the following groups of manufactured tobacco are covered:</p> <ul style="list-style-type: none"> <li>— cigars and cigarillos;</li> <li>— cigarettes;</li> <li>— smoking tobacco:             <ul style="list-style-type: none"> <li>— fine-cut tobacco for the rolling of cigarettes;</li> <li>— other smoking tobacco;</li> </ul> </li> <li>— products treated as the aforementioned groups of tobacco.</li> </ul> |
| <i>(4) Deadline for implementation of the legislation in the Member States</i> | <ul style="list-style-type: none"> <li>— Directive 79/32/EEC: 1.1.1980</li> <li>— Directive 80/369/EEC: 31.3.1980</li> <li>— Directive 92/78/EEC: 31.12.1992</li> </ul>   |
| <i>(5) Date of entry into force (if different from the above)</i>              |   |
| <i>(6) References</i>  | <p>Official Journal L 10, 16.1.1979<br/>         Official Journal L 90, 3.4.1980<br/>         Official Journal L 316, 31.10.1992</p>  |
| <i>(7) Follow-up work</i>  |   |
| <i>(8) Commission implementing measures</i>                                    |   |

### 3. INDIRECT TAXATION

#### 3.17. Excise duties: cigarettes: approximation of rates

<i>(1) Objective</i>	To establish an overall minimum excise duty for cigarettes.
<i>(2) Community measures</i>	Council Directive 92/79/EEC of 19 October 1992 on the approximation of taxes on cigarettes.
<i>(3) Contents</i>	<ol style="list-style-type: none"><li>1. The Directive lays down minimum consumption taxes on cigarettes, as defined by Directive 72/464/EEC (summary 3.15):<ul style="list-style-type: none"><li>— a specific excise duty per unit of product;</li><li>— a proportional excise duty calculated on the basis of the maximum retail selling price;</li><li>— VAT proportional to the retail selling price.</li></ul></li><li>2. Each Member State is to apply an overall minimum excise duty equivalent to 57% of the retail selling price for cigarettes of the price category most in demand.</li><li>3. Derogations for Spain and Portugal.</li><li>4. Procedure for a regular examination of the rates or amounts laid down in the Directive on the basis of a report from the Commission.</li></ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	1.1.1993
<i>(5) Date of entry into force (if different from the above)</i>	
<i>(6) References</i>	Official Journal L 316, 31.10.1992
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	

### 3. INDIRECT TAXATION

#### 3.18. Excise duties: tobacco other than cigarettes: approximation of rates

(1) <i>Objective</i>	To establish minimum excise duties for tobacco other than cigarettes.
(2) <i>Community measures</i>	Council Directive 92/80/EEC of 19 October 1992 on the approximation of taxes on manufactured tobacco other than cigarettes.
(3) <i>Contents</i>	<p>1. Member States are to apply a minimum excise duty on each of the following groups of products as defined by Directive 79/32/EEC (summary 3.16):</p> <ul style="list-style-type: none"> <li>— cigars and cigarillos;</li> <li>— fine-cut tobacco intended for the rolling of cigarettes;</li> <li>— other smoking tobaccos.</li> </ul> <p>2. The excise duty may be:</p> <ul style="list-style-type: none"> <li>— an <i>ad valorem</i> duty calculated on the basis of the maximum retail selling price of each product;</li> <li>— a specific duty, by quantity;</li> <li>— a composite duty combining an <i>ad valorem</i> element and a specific element.</li> </ul> <p>3. Derogations for Italy and Spain.</p> <p>4. Procedure for a regular examination of the rates or amounts laid down by the Directive on the basis of a report from the Commission.</p> <p>5. At the time of the annual adjustment of the value of the ecu in terms of the different national currencies, Member States may continue to apply the excise-duty amounts in force if conversion of the amounts expressed in ecus would result in an increase of less than 5% or ECU 5 in the excise duty expressed in national currency.</p>
(4) <i>Deadline for implementation of the legislation in the Member States</i>	1.1.1993
(5) <i>Date of entry into force (if different from the above)</i>	
(6) <i>References</i>	Official Journal L 316, 31.10.1992
(7) <i>Follow-up work</i>	
(8) <i>Commission implementing measures</i>	

### 3. INDIRECT TAXATION

#### 3.19. Excise duties: alcohol and alcoholic beverages: harmonization of structures

<i>(1) Objective</i>	To introduce harmonized structures for excise duties on alcoholic beverages and alcohol contained in other products in order to ensure the establishment of the internal market.
<i>(2) Community measures</i>	Council Directive 92/83/EEC of 19 October 1992 on the harmonization of the structures of excise duties on alcoholic beverages and alcohol contained in other products.
<i>(3) Contents</i>	<ol style="list-style-type: none"><li>1. Definitions of the terms 'beer', 'still wine', 'sparkling wine', 'intermediate products' and 'alcohol and alcoholic beverages'.</li><li>2. The excise duty levied on beer will be fixed by reference to the number of hectolitre/degrees of finished product.</li><li>3. Member States may divide beers into categories consisting of no more than 4 degrees Plato and may charge the same rate of duty per hectolitre on all beers falling within each category.</li><li>4. Member States may apply reduced rates of excise duty to beer brewed by independent small undertakings provided that those rates:<ul style="list-style-type: none"><li>— are not applied to undertakings producing more than 200 000 hl of beer per year;</li><li>— are not more than 50% below the standard national rate of excise duty.</li></ul></li><li>5. Definition of the term 'independent small brewery'.</li><li>6. Reduced rates introduced by Member States must apply equally to beer delivered into their territory from small breweries situated in other Member States.</li><li>7. Member States may apply reduced rates, which may fall below the minimum rate, for beer with an actual alcoholic strength by volume not exceeding 2.8% vol.</li><li>8. The excise duty levied on still wine and sparkling wine and on other fermented beverages and intermediate products will be fixed by reference to the number of hectolitres of finished product.</li><li>9. Member States will be required to levy the same rate of excise duty within each category of alcoholic beverages.</li><li>10. Member States may apply reduced rates of excise duty to any type of wine and other fermented beverages, except for beer, with an actual alcoholic strength by volume not exceeding 8.5% vol.</li><li>11. Member States may apply a single reduced rate of duty to intermediate products with an actual alcoholic strength by volume not exceeding 15% vol. provided that:<ul style="list-style-type: none"><li>— the reduced rate is not more than 40% below the standard national rate;</li><li>— the reduced rate is not less than the standard rate applied to still wine and to other still fermented beverages.</li></ul></li><li>12. The excise duty levied on alcohol and alcoholic beverages will be fixed per hectolitre of pure alcohol at 20°C. This will be calculated by reference to the number of hectolitres of pure alcohol.</li><li>13. Reduced rates may be applied to ethyl alcohol produced by small distilleries. However, those rates may not be more than 50% below the standard national rate of excise duty.</li></ol>



14. Definition of the term 'small distillery'.

15. Member States must apply any such reduced rates equally to ethyl alcohol originating from small distilleries in other Member States.

16. Subject to certain limits, reduced excise duty rates may also be applied to spirits with an actual alcoholic strength by volume not exceeding 10% volume and to French rum and Greek ouzo.

17. Where an alcoholic beverage is withdrawn from the market because its condition renders it unfit for human consumption, Member States may refund the excise duty paid.

18. The products covered by this Directive will be exempt from excise duty where they:

- are denatured in accordance with the requirements of any Member State;
- are denatured and used for the manufacture of products not intended for human consumption;
- are used for the production of vinegar, medicines or flavours for the preparation of foodstuffs.

19. The Directive provides for the mutual recognition of denaturing formulae and sets up a system for exchanging the requisite information and for combating any abuse of the exemption arrangements.

*(4) Deadline for implementation of the legislation in the Member States*

31.12.1992

*(5) Date of entry into force (if different from the above)*

*(6) References*

Official Journal L 316, 31.10.1992

*(7) Follow-up work*

*(8) Commission implementing measures*

### 3. INDIRECT TAXATION

#### 3.20. Excise duties: alcohol and alcoholic beverages: approximation of rates

<i>(1) Objective</i>	To set minimum rates to be applied no later than 1 January 1993.
<i>(2) Community measures</i>	Council Directive 92/84/EEC of 19 October 1992 on approximation of the rates of excise duty on alcohol and alcoholic beverages.
<i>(3) Contents</i>	<p>1. The shift to flexibility in the excise duty rates levied on alcohol and alcoholic beverages, intermediate products, wine and beer involves setting the following minimum rates:</p> <ul style="list-style-type: none"><li>— ECU 0.748 per hectolitre/degree Plato or ECU 1.87 per hectolitre/degree of alcohol for beer;</li><li>— ECU 0 per hectolitre for wine;</li><li>— ECU 45 per hectolitre for intermediate products;</li><li>— ECU 550 per hectolitre of pure alcohol for alcohol and alcohol contained in other beverages.</li></ul> <p>2. For the last-mentioned category above, Member States which apply a rate of duty exceeding ECU 1 000 per hectolitre of pure alcohol may reduce it but not below ECU 1 000.</p> <p>For the same category, Denmark and Italy may maintain their existing tax arrangements until 30 June 1996 provided that their rates do not fall below the minimum rate laid down.</p> <p>3. Reduced rates may be applied in certain regions of Greece, Italy and Portugal.</p> <p>4. Every two years, and for the first time not later than 31 December 1994, the rates of duty are to be reviewed and any necessary adjustments made.</p>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	31.12.1992
<i>(5) Date of entry into force (if different from the above)</i>	1.1.1993
<i>(6) References</i>	Official Journal L 316, 31.10.1992
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	

### 3. INDIRECT TAXATION

#### 3.21. Excise duties: mineral oils: harmonization of structures

- (1) *Objective* To harmonize at Community level the structures of excise duties on mineral oils as well as the exemptions and rate reductions applicable.
- (2) *Community measures* Council Directive 92/81/EEC of 19 October 1992 on the harmonization of the structures of excise duties on mineral oils.  
Amended by Council Directive 92/108/EEC of 14 December 1992.
- (3) *Contents*
1. The following text contains a consolidation of the Directives.
  2. The Directives lay down the arrangements for mineral oils, as defined in the combined nomenclature, which are subject to a harmonized excise duty within the Community.
  3. The chargeable events for the excise duty are:
    - the chargeable event provided for in Directive 92/12/EEC (summary 3.14);
    - the use and offer for sale of any mineral oil for heating purposes, as motor fuel or as an additive or extender in motor fuels;
    - the failure to comply with the conditions as to final use of mineral oils for the purpose of applying a reduced rate or exemption;
    - the consumption of mineral oils within the curtilage of an establishment producing mineral oils for purposes not related to such production.
  4. The amount of excise duty chargeable is calculated on the basis of a quantity of 1 000 litres or kilogrammes of product at 15° C. For heavy fuel oils, LPG and methane, any other method based on the proportion of the quantities used may be applied.
  5. The Directives provide for compulsory exemptions at Community level. Member States are not to subject to the harmonized excise duty under the conditions laid down by them minerals oils:
    - which are used neither as motor fuels nor as heating fuels;
    - which are used as fuels for the purpose of air navigation and navigation within Community waters, with the exception of private pleasure flying and private pleasure craft.
  6. Member States may apply other exemptions or reduced rates provided for in the Directive within their territory provided that this does not result in distortions of competition.
  7. Procedures for examining certain rates and exemptions.
- (4) *Deadline for implementation of the legislation in the Member States*
- Directive 92/81/EEC: 31.12.1992
  - Directive 92/108/EEC: 31.12.1992
- (5) *Date of entry into force (if different from the above)*
- (6) *References*
- Official Journal L 316, 31.10.1992  
Official Journal L 390, 31.12.1992
- (7) *Follow-up work* On 19 October 1992 the Council adopted Decision 92/510/EEC authorizing Member States to continue to apply to certain mineral oils when used for specific purposes existing reduced rates of excise duty

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or exemptions from excise duty in accordance with the procedure provided for in Article 8(4) of Directive 92/81/EEC (Official Journal L 316, 31.10.1992).

This Decision authorizes all Member States to continue to apply certain existing exemptions or reductions in rates not explicitly provided for in Directive 92/81/EEC, for specific policy considerations.

On 13 December 1993 the Council adopted Decision 93/697/EEC authorizing certain Member States to apply or to continue to apply to certain mineral oils, when used for specific purposes, reduced rates of excise duty or exemptions from excise duty in accordance with the procedure provided for in Article 8(4) of Council Directive 92/81/EEC (Official Journal L 321, 23.12.1993).

The Decision authorizes:

- Belgium to reduce until 31 December 1994 the rate of duty on heavy fuel provided that such an incentive is specifically linked to sulphur content and provided that the weighted average rate of duty respects the minimum rate of duty on heavy fuel oils provided for in Council Directive 92/82/EEC (summary 3.22);
- Greece to continue to apply long-standing exemptions and reductions that have limited local application;
- Italy to grant until 31 December 1994 relief from excise duty on mineral oils used as fuel in the production of alumina in Sardinia;
- Portugal to grant relief from excise duty for LPG, natural gas and methane when used as fuel for local public transport.

On 22 July 1993 the Commission presented a proposal for a Decision authorizing certain Member States to apply or to continue to apply to certain mineral oils used for specific purposes reduced rates of excise duty or exemptions from excise duty in accordance with the procedure provided for in Article 8(4) of Directive 92/81/EEC (COM(93) 354 final). The proposal is designed to authorize Portugal to grant relief from excise duty for LPG, natural gas and methane when used as fuel for public transport.

*(8) Commission  
implementing  
measures*



### 3. INDIRECT TAXATION

#### 3.22. Excise duties: mineral oils: approximation of rates

- (1) *Objective* To lay down minimum rates or rate bands for each product category, which Member States will have to apply by 31 December 1992 at the latest.
- (2) *Community measures* Council Directive 92/82/EEC of 19 October 1992 on the approximation of the rates of excise duty on mineral oils.
- (3) *Contents*
1. The Directive covers the excise duty rates for petrol (leaded or unleaded), diesel, heavy fuel oil, liquid petroleum gas, methane and kerosene.
  2. The target rates are not laid down in the current Directive but in a proposal which the Commission presented on 13 February 1991 (summary 3.23).
  3. The minimum rates to be applied on 1 January 1993 are as follows (ECU/1 000 litres):
    - leaded petrol: ECU 337 (for Luxembourg: ECU 292 for a transitional period from 1 January 1993 to 31 December 1994);
    - unleaded petrol: ECU 287 (for Luxembourg: ECU 242 during the transitional period);
    - diesel: used as a propellant: ECU 245 (for Luxembourg and Greece: ECU 195 during the transitional period);
    - diesel used for certain industrial purposes: ECU 18;
    - heating gas oil: ECU 18 (Member States not applying excise duty may continue to apply a zero rate from 1 January 1991);
    - heavy fuel oil: ECU 13;
    - liquid petroleum gas and methane used as fuel: ECU 100;
    - liquid petroleum gas and methane used for certain industrial purposes: ECU 36;
    - liquid petroleum gas and methane used for heating purposes: zero rate;
    - kerosene: ECU 245, unless used for certain industrial purposes or for heating;
  4. Arrangements are to be made for Portugal (the Azores) and for certain Greek islands.
  5. Every two years, and for the first time not later than 31 December 1994, the Council is to review the Directive.
- (4) *Deadline for implementation of the legislation in the Member States* 31.12.1992
- (5) *Date of entry into force (if different from the above)*

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**(6) References**

**Official Journal L 316, 31.10.1992**

**(7) Follow-up work**

**(8) Commission  
implementing  
measures**

### 3. INDIRECT TAXATION

#### 3.23. Excise duties: petrol and diesel: approximation of rates

- (1) *Objective* To set target rates of excise duties for petrol and raising the excise rate band on diesel which was proposed in 1989.
- (2) *Proposal* Proposal for a Council Directive fixing certain rates and target rates of excise duty on mineral oils.
- (3) *Contents*
1. The setting of minimum rates and rate bands is covered not by this Directive but by the proposal on the approximation of the rates of excise duty on mineral oils (summary 3.22), which specifically deals with target rates. These are not compulsory common rates but the common levels towards which Member States must progressively converge. A rate band has been set for diesel, however, because of the nature of that product.
  2. The target rates applicable from 1 January 1993 are as follows: (ECU/1 000 litres)
    - leaded petrol: ECU 495;
    - unleaded petrol: ECU 50 below the target rate for leaded petrol;
    - kerosene used as a propellant: ECU 495.
  3. The rate band applicable to diesel from 1 January 1993 is ECU 245 to ECU 270 per 1 000 litres.
- (4) *Opinion of the European Parliament* Not yet delivered.
- (5) *Current status of the proposal* Consultation procedure  
The Commission presented the proposal on 21 February 1991.  
The proposal is currently before Parliament for its opinion.
- (6) *References*
- |   |   |
|---|---|
| Commission proposal<br>COM(91) 43 final<br>Economic and Social<br>Committee opinion | Official Journal C 66, 14.3.1991<br><br><br>Official Journal C 159, 17.6.1991 |
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### 3. INDIRECT TAXATION

#### 3.24. Excise duties: motor fuels from agricultural sources: approximation of rates

- (1) *Objective* To reduce the rate of excise duty applicable to fuels produced from agricultural sources in order to further the Community's agricultural, energy and environmental policies.
- (2) *Proposal* Proposal for a Council Directive on excise duties on motor fuels from agricultural sources.
- (3) *Contents*
1. The fuels produced from agricultural products or products of vegetable origin qualifying for the reduced rate are: ethyl alcohol (bioethanol), methyl alcohol (methanol) and vegetable oil, whether chemically modified or not as defined by the Directive.
  2. The rates of excise duty applicable are:
    - for bioethanol and methanol: not more than 10% of that charged on unleaded petrol within the Member State in question;
    - for vegetable oil: not more than 10% of that charged on diesel within the Member State in question.
  3. The Member States are required to monitor the manufacture, storage, mixing and distribution of these products.
  4. Every two years, the Commission will present a report to the Council enabling it to assess, *inter alia*, the fiscal, economic, agricultural, energy, industrial and environmental aspects of the Directive. The first of these reports must be sent to the Council no later than 31 December 1997.
- (4) *Opinion of the European Parliament* Parliament approved the Commission's proposal subject to a number of amendments designed in particular to clarify the scope of the Directive and to adjust upwards the excise duty rates envisaged for the various biofuels.
- (5) *Current status of the proposal*
- Consultation procedure
- The Commission presented the proposal on 28 February 1992.
- On 8 February 1994 Parliament approved the Commission proposal subject to amendments. The Commission has accepted some of the amendments.
- An amended proposal incorporating the amendments proposed by Parliament and accepted by the Commission is awaited.
- (6) *References*
- |                                       |                                   |
|---------------------------------------|-----------------------------------|
| Commission proposal                   | Official Journal C 73, 24.3.1992  |
| COM(92) 36 final                      | Not yet published                 |
| European Parliament opinion           |                                   |
| Economic and Social Committee opinion | Official Journal C 223, 31.8.1992 |

### 3. INDIRECT TAXATION

#### 3.25. Tax exemptions: international travel

*(1) Objective*

To introduce Community tax-exemption arrangements for the non-commercial importation of goods by travellers in respect of intra-Community travel and travel between Member States and third countries.

*(2) Community measures*

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.

Amended by the following measures:

Council Directive 72/230/EEC of 12 June 1972;  
 Council Directive 78/1032/EEC of 19 December 1978;  
 Council Directive 78/1033/EEC of 19 December 1978;  
 Council Directive 81/933/EEC of 17 November 1981;  
 Council Directive 82/443/EEC of 29 June 1982;  
 Council Directive 85/348/EEC of 8 July 1985;  
 Council Directive 87/198/EEC of 16 March 1987;  
 Council Directive 88/664/EEC of 21 December 1988;  
 Council Directive 89/194/EEC of 13 March 1989;  
 Council Directive 89/220/EEC of 7 March 1989;  
 Council Directive 91/191/EEC of 27 March 1991;  
 Council Directive 91/673/EEC of 19 December 1991;  
 Council Directive 91/680/EEC of 16 December 1991;  
 Council Directive 92/111/EEC of 14 December 1992;  
 Council Directive 94/4/EC of 14 February 1994.

*(3) Contents*

1. The Directives authorize exemption from turnover tax and excise duty on imports.
2. Exemption in respect of travel between the Community and third countries:
  - is to apply to goods in travellers' personal luggage, provided that they have no commercial character and their total value does not exceed ECU 175 per person;
  - may be reduced to ECU 90 for travellers under 15 years old.
3. The abolition of frontiers within the Community on 1 January 1993 means that tax exemptions no longer apply when travelling between Member States. At airports and on board aircraft and ferries, however, duty-free sales to those travelling between Member States will remain possible until 30 June 1999. Such sales, which must be monitored by the vendor, may be made to travellers from third countries within the overall limits specified at point 2 above.
4. Quantitative limits for duty-free importation are set by the Community for tobacco products, alcoholic beverages, perfumes, coffee and tea. The limits for travel between third countries and the Community are different from those for travel between Member States. Exemption for tobacco products, alcoholic beverages and coffee must not be granted to travellers under 15 years old.
5. Member States are permitted, subject to certain conditions, to derogate from granting the exemption and to set lower limits as to value and/or quantity for the exemption of goods.

6. Member States may retain the exemptions in force if their conversion into ecu results in a variation of less than 5% as against the amounts in national currency, or in a reduction of the amount.

*(4) Deadline for implementation of the legislation in the Member States*

- Directive 69/169/EEC: 1.1.1970
- Directive 72/230/EEC: 1.7.1972, except for derogation
- Directive 78/1032/EEC: 1.1.1979
- Directive 78/1033/EEC: 1.1.1979
- Directive 81/933/EEC: 1.1.1982
- Directive 82/443/EEC: 1.1.1983
- Directive 85/348/EEC: 1.10.1985
- Directive 87/198/EEC: 1.1.1987
- Directive 88/664/EEC: 1.7.1989
- Directive 89/194/EEC: 1.1.1989
- Directive 89/220/EEC: 1.7.1989
- Directive 91/191/EEC: 1.7.1991, except for derogations
- Directive 91/673/EEC: 1.1.1992
- Directive 91/680/EEC: 1.1.1993
- Directive 92/111/EEC: 1.1.1993, except for derogations
- Directive 94/4/EC: 1.4.1994

*(5) Date of entry into force (if different from the above)*

*(6) References*

- Official Journal L 133, 4.6.1969
- Official Journal L 139, 17.6.1972
- Official Journal L 366, 28.12.1978
- Official Journal L 338, 25.11.1981
- Official Journal L 206, 14.7.1982
- Official Journal L 183, 16.7.1985
- Official Journal L 78, 20.3.1987
- Official Journal L 382, 31.12.1988
- Official Journal L 73, 17.3.1989
- Official Journal L 92, 5.4.1989
- Official Journal L 94, 16.4.1991
- Official Journal L 373, 31.12.1991
- Official Journal L 376, 31.12.1991
- Official Journal L 384, 30.12.1992
- Official Journal L 60, 3.3.1994

*(7) Follow-up work*

*(8) Commission implementing measures*

### 3. INDIRECT TAXATION

#### 3.26. Tax exemptions: small consignments of goods of a non-commercial character from third countries

<i>(1) Objective</i>	Reduce tax barriers to the sending of small consignments of goods by private persons from third countries to Member States by establishing Community tax exemptions.
<i>(2) Community measures</i>	<p>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.</p> <p>Amended by the following measures:          Council Directive 81/933/EEC of 17 November 1981;          Council Directive 85/576/EEC of 20 December 1985.</p>
<i>(3) Contents</i>	<p>1. Imported goods eligible for exemption from turnover tax and excise duty are those:</p> <ul style="list-style-type: none"> <li>— of a non-commercial character sent in small consignments from third countries;</li> <li>— by private persons to other private persons in a Member State.</li> </ul> <p>2. To be considered of a non-commercial character, the total value of a consignment should not exceed ECU 45.</p> <p>3. The following goods, which are subject to quantitative import restrictions:</p> <ul style="list-style-type: none"> <li>— tobacco products;</li> <li>— alcoholic beverages;</li> <li>— perfumes;</li> <li>— coffee;</li> <li>— tea,</li> </ul> <p>may be excluded from exemption or be exempted only for an amount less than ECU 45.</p> <p>4. If the adjustment of the amount of the Community exemption results in a difference of less than 5% when converted into national currency, the Member State concerned may maintain the existing amount as expressed in national currency.</p>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	<ul style="list-style-type: none"> <li>— Directive 78/1035/EEC: 1.1.1979</li> <li>— Directive 81/933/EEC: 1.1.1982</li> <li>— Directive 85/576/EEC: 1.7.1986</li> </ul>
<i>(5) Date of entry into force (if different from the above)</i>	
<i>(6) References</i>	<p>Official Journal L 366, 28.12.1978          Official Journal L 338, 25.11.1981          Official Journal L 372, 31.12.1985</p>
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measures</i>	

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### 3. INDIRECT TAXATION

#### 3.27. Tax exemptions: permanent imports of personal property

(1) *Objective* To eliminate the tax obstacles to the importation by private individuals of personal property into one Member State from another Member State through the introduction of tax exemptions.

(2) *Community measures* Council Directive 83/183/EEC of 28 March 1983 on tax exemptions applicable to permanent imports from a Member State of the personal property of individuals.

Amended by the following measure:  
Council Directive 89/604/EEC of 23 November 1989.

(3) *Contents*

1. Within the limits and subject to the conditions laid down in the Directives, Member States exempt personal property of a non-commercial or non-speculative nature imported permanently from another Member State by private individuals from the turnover tax, excise duty and other consumption taxes which normally apply to such property.
2. Personal property means:
  - property for the personal use of the persons concerned or the needs of their household;
  - instruments necessary to the person concerned for the exercise of his trade or profession.
3. Conditions governing the granting of the exemption.
4. Particular conditions governing the application of the exemption to certain goods:
  - tobacco products, alcoholic beverages, perfume, coffee and tea;
  - saddle-horses, motor-driven road vehicles (including trailers), caravans, mobile homes, pleasure boats and private aircraft.
5. Save by way of exception, motor-driven road vehicles (including trailers), caravans, mobile homes, pleasure boats and private aircraft may not be disposed of, hired out or lent during a period of 12 months following their importation free of duty.
6. Specific provisions on the importation of personal property:
  - in connection with a transfer of normal residence;
  - in connection with the furnishing or relinquishment of a secondary residence;
  - on marriage;
  - acquired by inheritance.
7. Member States may retain or introduce more liberal conditions for granting tax exemptions than those laid down in the Directives, but only for certain goods.
8. Regular reports by the Commission on the implementation of the Directives.

(4) *Deadline for implementation of the legislation in the Member States*

- Directive 83/183/EEC: 1.1.1984
- Directive 89/604/EEC: 1.7.1990



*(5) Date of entry into force (if different from the above)*

*(6) References*

Official Journal L 105, 23.4.1983  
Official Journal L 348, 29.11.1989

*(7) Follow-up work*

*(8) Commission implementing measures*

### 3. INDIRECT TAXATION

#### 3.28. Tax exemptions: temporary importation of certain means of transport

- (1) *Objective* To eliminate the tax obstacles to the temporary importation of certain means of transport within the Community by harmonizing national tax arrangements.
- (2) *Community measures* Council Directive 83/182/EEC of 28 March 1983 on tax exemptions within the Community for certain means of transport temporarily imported into one Member State from another.
- (3) *Contents*
1. The following are exempted from turnover tax, excise duties, any other consumption tax and the taxes listed in the annex to the Directive when temporarily imported from a Member State:
    - various means of transport acquired or imported in accordance with the general conditions of taxation in force on the domestic market of a Member State: motor-driven road vehicles (including their trailers), caravans, pleasure boats, private aircraft, bicycles, tricycles and saddle-horses;
    - normal spare parts, accessories and equipment imported with such means of transport.
  2. Commercial vehicles (goods vehicles, vehicles intended to transport more than nine persons) are excluded from the exemption.
  3. The Directive lays down the conditions governing the granting and duration of exemption for the temporary importation of the following categories:
    - private vehicles, caravans, pleasure boats, private aircraft, bicycles and tricycles;
    - private vehicles for business use;
    - saddle-horses on horse-riding excursions.
  4. The means of transport referred to in point 3 may not be disposed of, hired out or lent in the Member State of temporary importation.
  5. In exceptional cases, temporary importation of a private vehicle for business use may be made conditional upon payment of a security.
  6. Provisions relating to specific cases of temporary importation of private vehicles: these concern individuals working or studying in a Member State other than that of their normal residence.
  7. Member States are permitted to maintain or introduce more liberal exemption arrangements than those provided for in the Directive.
  8. Derogation for Denmark.
- (4) *Deadline for implementation of the legislation in the Member States* 1.1.1984
- (5) *Date of entry into force (if different from the above)*



*(6) References*

*(7) Follow-up work*

*(8) Commission  
implementing  
measures*

Official Journal L 105, 23.4.1983

### 3. INDIRECT TAXATION

#### 3.29. Convention on Temporary Admission

<i>(1) Objective</i>	Approval of the Convention on Temporary Admission and its annexes.
<i>(2) Community measures</i>	Council Decision 93/329/EEC of 15 March 1993 concerning the conclusion of the Convention on Temporary Admission and accepting its annexes.
<i>(3) Contents</i>	<ol style="list-style-type: none"><li>1. This Decision approves on behalf of the European Economic Community the Convention on Temporary Admission agreed at Istanbul on 26 June 1990 and its annexes, subject to certain conditions.</li><li>2. Temporary admission is the customs procedure under which goods may be brought into the territory of a Member State for a specific purpose with total or partial relief from import duties and taxes where the goods are intended for re-exportation within a specified period and without having undergone any change.</li><li>3. Each contracting party has the right to make the temporary admission of goods subject to the production of a customs document, under a simplified procedure if appropriate, and to the provision of security of an amount not exceeding the amount of the import duties and taxes from which the goods are exempt.</li><li>4. Temporary admission may be terminated:<ul style="list-style-type: none"><li>— by re-exportation of the goods;</li><li>— by placing them under another customs procedure in a free port or free zone with a view to their subsequent exportation;</li><li>— by clearance for home use;</li><li>— through the total loss of the goods.</li></ul></li><li>5. Provision is made for the establishment of an Administrative Committee to consider the implementation and interpretation of the Convention.</li><li>6. The Convention describes in detail the rules applicable to:<ul style="list-style-type: none"><li>— temporary admission papers (ATA and CPD carnets);</li><li>— goods for display or use at exhibitions, fairs, meetings or similar events;</li><li>— professional equipment;</li><li>— containers, pallets, packings, samples and other goods imported in connection with a commercial operation;</li><li>— goods imported in connection with a manufacturing operation;</li><li>— goods imported for educational, scientific or cultural purposes;</li><li>— travellers' personal effects and goods imported for sports purposes;</li><li>— tourist publicity material;</li><li>— goods imported as frontier traffic;</li><li>— goods imported for humanitarian purposes;</li><li>— means of transport;</li><li>— animals;</li><li>— goods imported with partial relief from import duties and taxes.</li></ul></li><li>7. The Community accepts the annexes to the Convention, subject to certain reservations.</li></ol>
<i>(4) Deadline for implementation of the legislation in the Member States</i>	Not required.



*(5) Date of entry into force (if different from the above)*

*(6) References*

*(7) Follow-up work*

*(8) Commission implementing measures*

Official Journal L 130, 27.5.1993

### 3. INDIRECT TAXATION

#### 3.30. Mutual assistance for the recovery of claims

*(1) Objective*

To lay down rules to be incorporated into the laws, regulations and administrative provisions of the Member States in order to ensure that claims arising out of the financing of the European Agricultural Guidance and Guarantee Fund or relating to agricultural levies, customs duties or value added tax can be recovered in any Member State.

*(2) Community measures*

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.

Amended by Council Directive 79/1071/EEC of 6 December 1979.

*(3) Contents*

1. The following text contains a consolidation of existing Directives in this field.
2. The authority in a Member State seeking assistance with a claim covered by the Directive is known as the 'applicant authority'; in order to recover the claim, it addresses a request for assistance to a competent authority in another Member State, known as the 'requested authority'.
3. At the request of the applicant authority, the requested authority is to provide any information which would be useful in the recovery of the claim.
4. At the request of the applicant authority, the requested authority is to notify to the addressee all instruments and decisions which emanate from the Member State of the applicant authority and relate to a claim and/or to its recovery.
5. At the request of the applicant authority, the requested authority is to recover claims which are the subject of an instrument permitting their enforcement.
6. The request for recovery sent by the applicant authority must be accompanied by an instrument permitting enforcement of the claim, which must not be contested in the applicant authority's own Member State. In addition, the measures taken in the applicant authority's Member State must not have resulted in the payment in full of the claim.
7. Claims are recovered in the currency of the Member State of the requested authority, which may, after consulting the applicant authority, allow the debtor time to pay; any interest charged here is remitted to the applicant authority's Member State.
8. An interested party wishing to contest the claim and/or the instrument permitting its enforcement issued in the Member State of the applicant authority may bring an action before the competent body of that Member State. Where it is the enforcement measures taken in the requested authority's Member State that are being contested, the action is to be brought before the competent body of that Member State. As soon as the requested authority is informed that an action has been brought, it must suspend the enforcement procedure.

9. Questions concerning periods of limitation are governed by the laws of the Member State of the applicant authority.
10. Member States renounce all claims upon each other for the reimbursement of costs resulting from mutual assistance under the Directive. The applicant authority's Member State is liable 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 is concerned.
11. A Committee on Recovery is set up and may examine any matter concerning the application of the Directive.

*(4) Deadline for implementation of the legislation in the Member States*

- Directive 76/308/EEC: 1.1.1978
- Directive 79/1071/EEC: 1.1.1981

*(5) Date of entry into force (if different from the above)*

*(6) References*

Official Journal L 73, 19.3.1976  
Official Journal L 331, 27.12.1979

*(7) Follow-up work*

*(8) Commission implementing measures*

Directive 77/794/EEC — Official Journal L 333, 24.12.1977  
Commission Directive 77/794/EEC 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. This Directive has been amended by the following Directives:  
Directive 85/479/EEC — Official Journal L 285, 25.10.1985  
Directive 86/489/EEC — Official Journal L 283, 4.10.1986  
These Directives lay down detailed rules in respect of:

- the information to be supplied in the requests for information referred to in point 3 above;
- the information to be supplied in the request for notification referred to in point 4 above;
- the information to be supplied in the request for recovery referred to in point 6 above;
- the information referred to in point 7 above;
- notification of an action to contest a claim or an instrument permitting its enforcement referred to in point 8 above.

The Directives also lay down detailed rules on the conversion and transfer of sums recovered and set a minimum amount below which a claim may not be made the subject of a request for assistance.

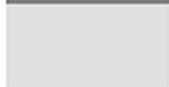
### 3. INDIRECT TAXATION

#### 3.31. Securities transactions: abolition of taxes

<i>(1) Objective</i>	To harmonize indirect taxation on transactions in securities.						
<i>(2) Proposal</i>	Proposal for a Council Directive concerning indirect taxes on transactions in securities.						
<i>(3) Contents</i>	<ol style="list-style-type: none"><li>1. Member States which impose a tax on transactions in securities must abolish it.</li><li>2. Obligation on Member States not to levy any tax on transactions in securities, whether or not levied at a flat rate, which is based on the value of the security being traded.</li><li>3. Member States may still levy certain duties: capital duty, transfer duty on transfers of shares when the transaction in fact relates to land and buildings, value-added tax on securities representing land and buildings.</li></ol>						
<i>(4) Opinion of the European Parliament</i>	Parliament approved the Commission's proposal without amendment.						
<i>(5) Current status of the proposal</i>	<p>Consultation procedure</p> <p>The Commission presented the proposal on 2 April 1976.</p> <p>On 27 October 1987 Parliament approved the Commission proposal without amendments.</p> <p>The proposal is currently before the Council for adoption.</p>						
<i>(6) References</i>	<table><tr><td>Commission proposal COM(76) 124 final</td><td>Official Journal C 133, 14.6.1976</td></tr><tr><td>European Parliament opinion Economic and Social Committee opinion</td><td>Official Journal C 318, 30.11.1987</td></tr><tr><td></td><td>Official Journal C 319, 30.11.1987</td></tr></table>	Commission proposal COM(76) 124 final	Official Journal C 133, 14.6.1976	European Parliament opinion Economic and Social Committee opinion	Official Journal C 318, 30.11.1987		Official Journal C 319, 30.11.1987
Commission proposal COM(76) 124 final	Official Journal C 133, 14.6.1976						
European Parliament opinion Economic and Social Committee opinion	Official Journal C 318, 30.11.1987						
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