

# COMMISSION OF THE EUROPEAN COMMUNITIES

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Brussels, 09.12.1994

Proposal for a

COUNCIL DIRECTIVE

**AMENDING COUNCIL DIRECTIVE 94/4/EC  
of 14 February 1994 and  
introducing a temporary derogation applicable to Austria**

(presented by the Commission)

## EXPLANATORY MEMORANDUM

### General background

On 14 February 1994 the Council adopted, on a proposal from the Commission, Directive 94/4/EC amending Directives 69/169/EEC and 77/388/EEC and increasing the level of allowances for travellers coming from third countries and the limits on tax-free purchases in intra-Community travel.<sup>1</sup>

The maximum allowance for goods contained in the personal luggage of travellers coming from third countries, which had been set at ECU 45 since 1 January 1982, was increased to ECU 175 (ECU 90 for travellers under fifteen years of age). Quantity limits (for alcohol, tobacco, etc.) remained unchanged.

This change took account of:

- the need to resolve the practical difficulties being encountered by individuals and administrations;
- the significant increase in the quantity of goods likely to be purchased by travellers through existing commercial channels;
- the guidelines issued at international level, particularly by the OECD, in this connection;
- the specific difficulties confronting two Member States:
  - \* the particular position of the Canary Islands, Ceuta and Melilla: until 31 December 2000, special provisions (an allowance of ECU 600) will apply to goods imported by travellers entering mainland Spain and the Balearic Islands (Article 1(3) of the above Directive);
  - \* the concerns of the Federal Republic of Germany, which has been authorized to defer implementation of the provisions until 1 January 1998 as regards goods imported by land or by means of coastal navigation by travellers coming from countries other than EFTA members (Article 3(2) of the Directive).

Parallel provisions (excluding the special treatment for the Canary Islands) have been adopted by the Council and are also applicable from 1 April 1994 on the basis of Regulation (EC) No 355/94 of 14 February 1994.<sup>2</sup>

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<sup>1</sup> OJ No L 60, 3.3.1994, p. 14.

<sup>2</sup> OJ No L 46, 18.2.1994, p. 5.

## **Request by the Republic of Austria**

Pursuant to Article 151(2) of the Act concerning the conditions of accession of the Kingdom of Norway, the Republic of Austria, the Republic of Finland and the Kingdom of Sweden and the adjustments to the Treaties on which the Union is founded, which is annexed to the Treaty concerning the accession of those countries, Austria is seeking a temporary derogation modelled largely on that applicable to Germany under Article 3(2) of Directive 94/4/EC.

This request is based on similar arguments to those put forward by Germany: price differences between Austria and the countries on its eastern border, the practice of undertaking shopping trips and the difficulties involved in carrying out controls.

### **Analysis**

In view of Austria's particular geographical position, the possible economic repercussions in this field and the similarity of the situations in Germany and Austria, it is necessary to introduce for Austria a derogation similar to that granted to Germany under Article 3(2) of Directive 94/4/EC.

However, the situation would be as follows, regarding the amount of travellers allowances :

- ECU 175 for imports into ten of the existing Member States;
- until 31 December 2000, ECU 600 for imports into mainland Spain from the Canary Islands, Ceuta and Melilla;
- until 1 January 1998, maintenance of the allowance of ECU 45 for imports into Germany under the conditions laid down by Article 3(2) of Directive 94/4/EC;
- until that same date, maintenance of the limit of ECU 75 currently applied by Austria to imports by travellers coming from countries on its eastern border.

This highlights the organizational and control problems which can arise in such circumstances. Differences in treatment must also be avoided in respect of goods imported by travellers crossing external frontiers linking the Union to countries other than EFTA members.

Accordingly, it is important that the Federal Republic of Germany and the Republic of Austria should be able to apply to goods imported into their respective territories by travellers coming from those countries a single allowance based on the ECU 75 allowance currently in force in Austria.

As regards reliefs from customs duty for travellers coming from third countries, parallel provisions amending Council Regulation (EC) No 355/94 of 14 February 1994 are the subject of a separate proposal.

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Council Directive**

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**THE COUNCIL OF THE EUROPEAN UNION,**

Having regard to the Treaty establishing the European Community,

Having regard to the Treaty concerning the accession of the Kingdom of Norway, the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the European Union<sup>1</sup>, and in particular article 2(3) thereof, and the Act concerning the conditions of accession, and in particular article 151(2) thereof,

Having regard to the proposal from the Commission,<sup>2</sup>

Whereas, on 5 September 1994, the Republic of Austria requested a derogation based on that applicable from 1 April 1994 to the Federal Republic of Germany pursuant to Article 3(2) of Directive 94/4/EC amending Directives 69/169/EEC and 77/388/EEC and increasing the level of allowances for travellers coming from third countries and the limits on tax-free purchases in intra-Community travel;<sup>3</sup>

Whereas that request is aimed in particular at maintaining until 1 January 1998 the limit currently applicable in the Republic of Austria to imports of goods by travellers entering its territory by a land frontier linking it to countries other than Member States and members of the European Free Trade Association (EFTA);

Whereas account should be taken of the economic difficulties likely to be caused in the Republic of Austria by the amount of the allowances in the case of the travellers referred to in the preceding recital;

Whereas, however, it is necessary to prevent distortions of competition resulting from the application of different limits when the external frontiers linking the Community to countries other than EFTA members are crossed; whereas it is important that the Federal Republic of Germany and the Republic of Austria should apply the same limit to imports of goods into their respective territories by travellers coming from the said countries;

**HAS ADOPTED THIS DIRECTIVE:**

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<sup>1</sup> OJ N° C 241, 29.8.1994, p.9.

<sup>2</sup> OJ No C , .1994, p. .

<sup>3</sup> .OJ No L 60, 3.3.1994, p. 14

### ***Article 1***

Directive 94/4/EC is hereby amended as follows:

Article 3(2) is replaced by the following:

- "2. By way of derogation from paragraph 1, the Federal Republic of Germany and the Republic of Austria shall be authorized to bring into force the measures necessary to comply with this Directive by 1 January 1998 at the latest for goods imported by travellers entering German or Austrian territory by a land frontier linking Germany or Austria to countries other than Member States and the EFTA members or, where applicable, by means of coastal navigation coming from the said countries.

However, from the entry into force of the Treaty concerning the accession of the Kingdom of Norway, the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the European Union, those Member States shall apply an allowance of not less than ECU 75 to imports by the travellers referred to in the preceding subparagraph."

### ***Article 2***

1. Subject to the entry into force of the Treaty concerning the accession of the Kingdom of Norway, the Republic of Austria, the Republic of Finland and the Kingdom of Sweden, Member States shall implement the laws, regulations and administrative provisions necessary to comply with this Directive, by the date of entry into force of this Treaty. They shall forthwith inform the Commission thereof.

When Member States adopt these provisions, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

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

### ***Article 3***

**This Directive is addressed to the Member States.**

**Done at Brussels, December 1994.**

**For the Council  
The President**

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# DOCUMENTS

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