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SERIES A

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**** I**
REPORT

drawn up on behalf of the Committee on Economic and
Monetary Affairs and Industrial Policy

on the proposal from the Commission to the Council for a
regulation on administrative cooperation in the field of
indirect taxation
(COM(90) 183 final - C3-0230/90 - SYN 275)

Rapporteur: Mr Karel DE GUCHT

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A Series: Reports - B Series: Motions for Resolutions, Oral Questions - C Series: Documents received from other Institutions (e.g. Consultations)

PE 143.460/fin.

OP. FR

* = Consultation procedure requiring a single reading

****II** = Cooperation procedure (second reading) which requires the votes of a majority of the current Members of Parliament for rejection or amendment

****I** = Cooperation procedure (first reading)

******* = Parliamentary assent which requires the votes of a majority of the current Members of Parliament

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By letter of 24 July 1990, the Council consulted the European Parliament, pursuant to Rule 100 A of the EEC Treaty, on the Commission proposal for a Council regulation on administrative cooperation in the field of indirect taxation.

At the sitting of 10 September 1990, the President of Parliament announced that he had referred this proposal to the Committee on Economic and Monetary Affairs and Industrial Policy as the committee responsible.

At its meeting of 23 June 1990 the Committee on Economic and Monetary Affairs and Industrial Policy appointed Mr De Gucht rapporteur.

At its meetings of 26-28 June, 19-21 September, 29 and 30 October 1990, it considered the Commission's proposal and the draft report.

At the last meeting it adopted the draft legislative resolution unanimously.

The following took part in the vote: Beumer, chairman; de Gucht, rapporteur; Barton, Cassidy, Christiansen, de Donnea, Friedrich, Hoff, Metten, Patterson, Pinxten, Read, Siso Cruellas, von Wogau, Porto (for Visentini), Randzio-Plath (for Mattina), Turner (for Stevens), van Hemeldonck (for Roumeliotis) and Van der Waal (for Ruiz Mateos).

The report was tabled on 6 November 1990.

The deadline for tabling amendments will appear on the draft agenda for the part-session at which the report is to be considered.

Articles 3 to 6 unchanged

Amendment No. 2

Article 7

1. At the request of an applicant authority, two or more of the administrative authorities referred to in Article 2 shall consult together for the purposes of determining cases and procedures for co-ordinated tax examinations. Each authority involved shall decide whether or not it wishes to participate in a particular co-ordinated tax examination.

2. Unchanged

Article 7

1. At the request of an applicant authority, two or more of the administrative authorities referred to in Article 2 shall consult together for the purposes of determining cases and procedures for co-ordinated tax examinations. Each authority involved shall decide whether or not it wishes to participate in a particular co-ordinated tax examination; should it decide not to participate, it shall forward a justification to the applicant authority and also notify the Commission.

Articles 8 to 14 unchanged

Amendment No. 3

Article 15

1. The competent authority of a Member State which under the preceding articles is called upon to furnish information shall forward it as swiftly as possible and in any case within time limits to be agreed under the procedures laid down in Article 19. Information which is provided on request shall be furnished within three months of the receipt of the request, unless the time limit is extended by the applicant authority.

2. Unchanged

Article 15

1. The competent authority of a Member State which under the preceding articles is called upon to furnish information shall forward it as swiftly as possible and in any case within time limits to be agreed under the procedures laid down in Article 19. Information which is provided on request shall be furnished within one month of the receipt of the request in cases where tax evasion is positively suspected, and within three months in other cases, unless the time limit is extended by the applicant authority.

Amendment No. 4

Article 16

1. By agreement between the applicant authority and the requested authority and in accordance with the arrangements laid down by the latter, officials duly authorized by the applicant authority may obtain, from the offices where the administrative authorities of the Member State in which the requested authority is situated exercise their functions, information concerning the application of the law on indirect tax matters which is needed by the applicant authority and which is derived from documentation to which the staff of those offices have access. These officials shall be authorized to take copies of the said documentation.

2. By agreement between the applicant authority and the requested authority the latter shall allow officials duly authorized by the applicant State to be present at the appropriate part of a tax examination in the requested Member State.

Article 16

1. Officials duly authorized by the applicant authority may obtain, from the offices where the administrative authorities of the Member State in which the requested authority is situated exercise their functions, information concerning the application of the law on indirect tax matters which is needed by the applicant authority and which is derived from documentation to which the staff of those offices have access. These officials shall be authorized to take copies of the said documentation. The applicant authority shall give the requested authority advance notification thereof.

2. The requested authority shall allow officials duly authorized by the applicant state to be present at the appropriate part of a tax examination in the requested Member State.

3. If the request is acceded to, the requested authority shall, as soon as possible, notify the applicant authority about the time and place of the examination, the authority or official designated to carry out the examination and the procedures and conditions laid down by the requested authority for the conduct of the examination. All decisions in respect of the conduct of the tax examination shall be made by the requested authority.

4. Unchanged.

3. The requested authority shall, as soon as possible, notify the applicant authority about the time and place of the examination, the authority or official designated to carry out the examination and the procedures and conditions laid down by the requested authority for the conduct of the examination. All decisions in respect of the conduct of the tax examination shall be made by the requested authority.

Articles 17 and 18 unchanged

Amendment No. 5

Article 19

1. The Commission shall organize meetings with the representatives of the Member States during which:

- the operation of the arrangements for administrative cooperation provided for in this Regulation shall be examined in general terms, with particular regard to the development of standard practices for the validation and verification of intra-Community transactions,

- common practical procedures for forwarding the information referred to in Article 3 shall be laid down, taking due account of any agreements under Article 11,

- the information sent to the Commission pursuant to Article 3 shall be examined with a view to drawing the relevant conclusions, determining the measures required to put an end to any operations found to be contrary to the law on indirect tax matters and, where necessary, suggesting amendments to existing Community provisions on the drawing up of additional ones,

Article 19

1. A 'standing committee on administrative cooperation in the field of indirect taxation' shall be set up.

2. The committee shall be composed of representatives appointed by the Member States and shall be chaired by a Commission representative.

3. The Commission advised by the committee shall :

- lay down procedures for practical application and the operation of the arrangements for administrative cooperation provided for in this regulation;

- monitor and evaluate the operation of such procedures with particular regard to the procedures covering standard practices for the validation and verification of intra-Community transactions, and propose further methods as appropriate.

4. (a) the representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within the time limit which th

- cases and procedures concerning coordinated tax examinations provided for in Article 7 shall be examined and discussed.

Paragraphs 2 to 5 unchanged
(they become 5 to 8)

the chairman may lay down according to the urgency of the matter if necessary by taking a vote;

(b) the opinion of the committee shall be recorded in the minutes; in addition each Member State shall have the right to ask to have its position recorded in the minutes;

(c) the Commission shall take the utmost account of the opinion delivered by the committee, it shall inform the committee of the manner in which its opinion has to be taken into account.

Article 20 to 22 unchanged

Amendment No. 6

Article 22(a) (new)

Every two years from the date of implementation set out in Article 23, the Commission shall draw up a report for the Council and European Parliament on the conditions of application of the present Regulation, notably on the basis of the constant monitoring procedures provided for in Article 19(3).

Article 23 unchanged

DRAFT LEGISLATIVE RESOLUTION
(Cooperation procedure, first reading)

embodying the opinion of the European Parliament on the proposal from the Commission to the Council for a regulation concerning administrative cooperation in the field of indirect taxation.

The European Parliament,

- having regard to the Commission proposal to the Council (COM(90) 0183 final - SYN 275)¹,
 - having been consulted by the Council pursuant to Article 100A of the EEC Treaty (C3-0230/90),
 - having regard to the report of the Committee on Economic and Monetary Affairs and Industrial Policy (A3-0279/90),
1. Approves the Commission's proposal subject to Parliament's amendments and in accordance with the vote thereon;
 2. Calls on the Commission to amend its proposal accordingly, pursuant to Article 149(3) of the EEC Treaty;
 3. Calls on the Council to consult Parliament again should it intend to make substantial amendments to the Commission's proposal;
 4. Calls on the Council to incorporate Parliament's amendments in the common position that it adopts in accordance with Article 149(2)(a) of the EEC Treaty;
 5. Instructs its President to forward this opinion to the Council and Commission.

¹ OJ No. C 187, 27.7.1990, p. 23

B
EXPLANATORY STATEMENT

1. There is a general consensus that if intra-Community fiscal borders are to be abolished there will have to be a flexibly functioning system of multilateral administrative cooperation in relation to indirect taxation that will be more far-reaching than the existing bilateral agreement; otherwise there will be an unacceptable increase in the extent of fraud. This applies all the more to the present Commission proposals which, in accordance with the decision of the ECOFIN Council of 13 November 1989, provide for the abolition of the tax boundaries during a transition period with the implementation of the destination principle. Administrative cooperation will be required to ensure that, despite the absence of checks at the frontiers, the zero rate will only be applied to goods that are genuinely exported, and that the VAT is effectively paid to the country of final destination. On the other hand, Parliament has repeatedly asserted that the essential thing is that the administrative difficulties in relation to VAT, for both governments and private firms alike, need to be reduced substantially. The Commission, together with the Council of November 1989, have both confirmed this as an essential condition.

2. The present proposal for a regulation provides for the necessary legal instrument, and identifies the conditions with which administrative cooperation of this kind within the Community would have to comply. The proposed administrative cooperation applies both to VAT and to customs duties. By comparison with previous limited administrative cooperation in the area of VAT, the instrument now being proposed has a new dimension: in addition to combating fraud, this cooperation will also serve to ensure the necessary exchanges of data relating to intra-Community transactions on which VAT and customs duties are payable. It is clear that, as the Commission asserts, cooperation of this kind needs to be put on a more regular and routine basis than under the existing arrangements. The susceptibility to fraud of the transitional arrangements, under which the destination-country principle, and consequently the zero rate on export are applied, cannot, however, result in systematic monitoring of every intra-Community trade transaction. The abolition of checks at the frontiers should certainly not be replaced by an increase in internal administrative requirements and checks. It will consequently be essential for verifications to be restricted to random spot-checks since they would otherwise constitute serious obstacles, both for the authorities and for the private sector, and be in conflict with the objectives of achieving the internal market. In the proposal for a regulation all the requirements for extending administrative cooperation are specified, but nowhere is it clearly stated that checks on intra-Community trade transactions should be confined to random spot-checks, and should not result in a major administrative burden being placed on the authorities, and especially not on the private sector.

3. The Commission also states that the practical details of these instruments should be left to subsequent consultation and coordination. To that end it proposes in Article 19 a consultative and coordinating body, with its own role being confined to the convening of meetings. The Commission's part in the proposed consultative body is, however, much more restricted than in any committee in the context of the Council Decision of 13 July 1987 concerning the Commission's powers of implementation. The reason for these restricted powers being granted to the Commission is stated in the proposal to be that this is a matter of the collection of national revenue. In this

connection it should, however, be pointed out that the principle objective of the proposal for a resolution here is to secure the smooth operation of the abolition of intra-Community tax frontiers. The impact of this administrative cooperation and the implementation conditions and procedures yet to be determined will affect not only the administrative burden on the national administrations, but also the administrative burden on the private sector, and will influence intra-Community trade and the impact of the internal market in general. In view of the impact on the operation of the internal market of the implementation provisions and the procedures still to be drawn up, the need to give concrete form to this administrative cooperation cannot be left to an inter-governmental body in which the role of the Commission is confined to convening meetings.

4. It is therefore proposed (amendment to Article 19), in accordance with the procedures normally applied to committees assisting the Commission in areas concerned with the effective operation of the internal market that a Type I 'consultative committee on administrative cooperation' be set up.

5. The establishment of such a committee does not however mean that on bilateral questions the Member States can have no direct contacts with each other. Article 19(5) (previously 19(2)) of the Commission's proposal provides for this option and can be approved.

6. For the administrative cooperation, which anyway needs to be put on a more regular and routine basis, to operate effectively, and with an eye to the speed with which this will have to be done, the setting up of an interactive computer and telematics network will be necessary. In that connection the Commission states in its explanatory memorandum that it will carry out a study into the feasibility of such a network. The study should be submitted to Parliament. If it is decided on the basis of this study to go ahead with setting up this network, the Commission should submit the necessary legislative proposals to the Council and Parliament.

