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REPORT

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

on the Commission's proposal and amended proposal for a
Council directive supplementing the common system of
value added tax and amending Directive 77/388/EEC

- Removal of fiscal frontiers
- Transitional arrangements for taxation with a view to
establishment of the internal market

(COM(87) 322 final/2 C3-0026/89 and COM(90) 182 final-
C3-0029/90)

Rapporteur: Mr Gérard FUCHS

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PE 143.204/fin.
Or. FR.

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



= Consultation procedure requiring a single reading



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



= Cooperation procedure (first reading)



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

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By letters of 14 September 1987 and 24 July 1990 the President of the Council consulted the European Parliament, pursuant to Article 99 of the EEC Treaty, on Commission proposal COM(87) 322 and amended proposal COM(90) 182 final for a Council directive supplementing the common system of value added tax and amending Directive 77/388/EEC (removal of fiscal frontiers and transitional arrangements for taxation with a view to establishment of the internal market).

On 12 October 1987 and 10 September 1990 the President of Parliament referred these proposals to the Committee on Economic and Monetary Affairs and Industrial Policy as the committee responsible, and to the Committee on Transport and Tourism and the Committee on the Environment, Public Health and Consumer Protection for their opinions.

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

At its meetings of 26-28 June, 19-21 September, 25-27 September and 29-30 October 1990 the committee considered the Commission proposal and the draft report.

At the last meeting the committee decided by 21 votes to 2 to recommend that Parliament adopt the Commission proposal subject to the following amendments.

The following took part in the vote: Beumer, chairman; Fuchs, vice-chairman and rapporteur; Barton, Beazley, Bofill Abeilhe, Cassidy, Cuadron, Colom I Naval, de Donnea, Hoff, Metten, Patterson, Pinxten, Read, Roumeliotis, Sisó Cruellas, Falconer (for Christiansen), Martinez (for Megret), Porto (for Visentini), Randzio-Plath (for Mattina) and Turner (for Stevens pursuant to Rule 111(2)).

The opinion of the Committee on Transport and Tourism (PE 144.436/fin.) is attached; the Committee on the Environment, Public Health and Consumer Protection decided on 29 October 1990 not to draw up an opinion.

The report was tabled on 7 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.

A

AMENDMENTS

Commission text⁽¹⁾

Amendments

Preamble and recitals 1 to 4 unchanged

Amendment No. 1

Fifth recital (new)

Whereas, in view of its economic and budgetary implications, the passage to definitive arrangements will only be possible when all the provisions necessary for the complete abolition of fiscal frontiers, and notably the harmonization of the number and levels of VAT rates and the basis of assessment of VAT, and the establishment of effective arrangements for preventing tax evasion and tax fraud when border checks are abolished have been adopted;

Amendment No. 2

Sixth recital (new)

Whereas the Member States have undertaken to abolish all restrictions on travellers' purchases by 1 January 1993;

Amendment No. 3

Seventh recital (new)

Whereas the Member States have already undertaken to bring about a convergence of VAT levels;

Amendment No. 4

Eighth recital (new)

Whereas an equitable compensation mechanism must also be set up before definitive arrangements can be introduced;

⁽¹⁾ COM(87) 322 final/2 (OJ No. C 252, 22.9.1987, p.2)
(COM(90) 182 final (OJ No. C 176, 17.7.1990, p.8

Amendment No. 5
Ninth recital (new)

Whereas, while attempts must be made to ease the administrative and statistical formalities facing undertakings, efforts are also needed for both economic and fiscal reasons to maintain the quality of the Community's statistical machinery;

Amendment No. 6
Tenth recital (new)

Whereas the transitional period must be used to take measures to offset the social repercussions in the professions concerned and to prevent problems arising, notably in intra-Community frontier regions, as a result of the abolition of fiscal frontiers;

Twelfth recital
(initial fifth recital unchanged)

Amendment No. 7
Eleventh recital (new)

Whereas the economic and social implications of the completion of the internal market for tax-free sales have to be determined;

Article 1

Directive 77/388/EEC is hereby amended as follows²:

Amendment No. 8

Paragraph 1(a) (new)

Title IV

Article 4(5)

States, regional and local government authorities and other bodies governed by public law shall not be considered taxable persons in respect of the activities or transactions in which they engage as public authorities, even when they collect dues, fees, contributions or payments in connection with these activities or transactions.

Unchanged

However, when they engage in such activities or transactions, they shall be considered taxable persons in respect of these activities or transactions where treatment as non-taxable persons would lead to significant distortions of competition.

Delete the word 'significant'.

Paragraphs 2 to 7 unchanged

Amendment No. 9

Paragraph 7(a) (new)

Title IX, Rates
Article 12

Article 12(6) (new):

Where the rates are amended by a Member State, it shall notify the Commission and the other Member States as soon as possible and provide the Commission with all the information the latter considers necessary;

Paragraph 8 unchanged

² The paragraph numbers refer to proposal for a directive COM(90) 182 final

Amendment No. 10
Paragraph 9

Article 13 C. Options

Member States may allow taxpayers the right of option for taxation in cases of:

- (a) letting and leasing of immovable properties;
- (b) the transactions covered in B (d), (g) and (h) above.

Article 13 C. Options:

Member States shall allow taxpayers the right of option for taxation in cases of:

unchanged

Paragraphs 10 to 12 unchanged

Paragraphs 13 to 27 unchanged

Amendment No. 11
Paragraph 27(a)(new)

Title IX Article 17, Origin and scope of the right to deduct

7. Subject to the consultation provided for in Article 29, each Member State may, for cyclical economic reasons, totally or partially exclude all or some capital goods or other goods from the system of deductions. To maintain identical conditions of competition, Member States may, instead of refusing deduction, tax the goods manufactured by the taxable person himself or which he has purchased in the country or imported, in such a way that the tax does not exceed the value added tax which would have been charged on the acquisition of similar goods.

7. Subject to the consultation provided for in Article 29, each Member State may, for a limited period and for cyclical economic reasons ...
(rest unchanged)

Paragraph 28 unchanged

Amendment No. 12
Paragraph 28(a)(new)

Title XIII, Obligations of persons liable for payment, Article 22(4):

The first subparagraph of Article 22(4) to read:

4. Every taxable person shall submit a return within an interval to be determined by each Member State. This interval may not exceed two months following the end of each tax period. The tax period may be fixed by Member States as a month, two months or a quarter. However, Member States may fix a different periods provided that these do not exceed a year.

Every taxable person shall submit a return within an interval which may not exceed three months following the end of each tax period; from 1 January 1993 the tax period shall be two full months.

Paragraph 29 unchanged

Amendment No. 13
paragraph 29(a) (new)

Article 22(9):

The third indent of Article 22(9) to read:

9. Member States may release taxable persons:

- from certain obligations,
- from all obligations where those taxable persons carry out only exempt transactions,

- from the payment of a tax due where the amount is insignificant.

- from payment of the tax due where the amount is less than 100 ECU.

Article 2

Amendment No. 14

Article 28 of Directive 77/388/EEC is hereby replaced by the following:

Article 28 of Directive 77/388/EEC, with the exception of paragraphs 2 and 3, which shall remain in force until the adoption of provisions concerning the rates of Value Added Tax, is hereby replaced by the following:

Article 28

Notwithstanding the other provisions of this Directive and without prejudice to Article 32, the following provisions shall apply until 31 December 1996 at the latest: (rest unchanged)

Article 28

Notwithstanding the other provisions of this Directive and without prejudice to Article 32, the following provisions shall apply until 31 December 1996 at the latest subject to the provisions of Article 28(a): (rest unchanged)

Amendment No. 15

(Article 28(a), first indent

To read:

- the supplies comprise goods other than private vehicles that have been dispatched or transported to another Member State;

- the supplies comprise goods other than vehicles, referred to in Article 28(b), first indent, that have been dispatched or transported to another Member State;

Amendment No. 16

Article 28(b), introductory section and first indent

To read:

- supplies of private vehicles forming part of the seller's stock in trade and dispatched or transported to another Member State by the seller for his account or by a person not established within the territory of the country by whom the goods are acquired or for his account;

Under conditions which they shall lay down for the purpose of ensuring the correct and straightforward application of the exemptions provided for below and of preventing any evasion, avoidance or abuse, and without prejudice to other Community provisions, Member States shall, by analogy ...
(rest unchanged)

- supplies of vehicles other than new commercial vehicles or those sold by a taxable person other than a taxable dealer as defined in Article 32, subject to an obligation for registration, dispatched or transported to another Member State by the seller or for his account or by a person not established within the territory of the country by whom the goods are acquired or for his account. New vehicles shall be those which have not been acquired by an end consumer for his own needs.

Amendment No. 17
Article 28(b)
Second indent and first subindent

- supplies other than those referred to in (a) to a taxable person or to a non-taxable person within the meaning of Article 4(5) of goods other than private vehicles as referred to in the first indent which are dispatched or transported to a taxable person or a non-taxable person within the meaning of Article 4(5) in another Member State by the seller or for his account or by a person not established within the territory of the country by whom the goods are acquired or for his account. However, where the person by whom the goods are acquired is a taxable person whose activity is fully exempt or a non-taxable person within the meaning of Article 4(5), this provision shall apply only from the moment during the calendar year when the total amount of corresponding purchases exclusive of value-added tax exceeds the equivalent value in national currency of ECU 35 000 at the conversion rate ruling on the day this Directive is adopted. This amount shall be increased to ECU 70 000 with effect from 1 January 1995, at the conversion rate applicable on that date. The threshold for purchases which applies for the purposes of these provisions consists of the amount of purchases exclusive of value-added tax which have been dispatched or transported from a Member State other than the Member State of arrival of the goods, with the exception of:

- supplies other than those referred to in (a) to a taxable person or to a non-taxable person within the meaning of Article 4(5) of goods other than vehicles referred to in Article 28(b) first indent which are dispatched or transported to a taxable person or a non-taxable person within the meaning of Article 4(5) in another Member State by the seller or for his account or by a person not established within the territory of the country by whom the goods are acquired or for his account. However, where the person by whom the goods are acquired is a taxable person whose activity is fully exempt or a non-taxable person within the meaning of Article 4(5), this provision shall apply only from the moment during the calendar year when the total amount of corresponding purchases exclusive of value-added tax exceeds the equivalent value in national currency of ECU 35 000 at the conversion rate ruling on the day this Directive is adopted. This amount shall be increased to ECU 70 000 with effect from 1 January 1995, at the conversion rate applicable on that date. The threshold for purchases which applies for the purposes of these provisions consists of the amount of purchases exclusive of value-added tax of services which under the provisions of point (f) have been supplied by a person providing services established in another Member State and of purchases which have been dispatched or transported from a Member State other than the Member State of arrival of the goods, with the exception of:

- purchases of private vehicles the supply of which is covered by the provisions of the first indent

- purchases of vehicles referred to in Article 28(b) first indent

rest unchanged

(Article 28(c) to (e) unchanged

Amendment No. 18

Article 28(f)

To read:

The place where services specified in Article 9(2) (e) are supplied when performed for customers established outside the Community or for taxable persons established in the Community but not in the same country as the supplier shall be the place where the customer has established his business or has a fixed establishment to which the service is supplied or, in the absence of such a place, the place where he has his permanent address or usually resides;

The place where services specified in Article 9(2) (e) are supplied when performed for customers established outside the Community or for taxable persons or non-taxable persons within the meaning of Article 4(5) established in the Community but not in the same country as the supplier shall be the place where the customer has established his business or has a fixed establishment to which the service is supplied or, in the absence of such a place, the place where he has his permanent address or usually resides;

Amendment No. 19

Article 28(g)

(g) Member States may grant taxable persons the right to opt for taxation of the transactions referred to in Article 13(B)(d);

Article 28(g)

(g) Member States shall grant taxable persons the right to opt for taxation of the transactions referred to in Article 13(B)(d). The Commission shall, before the end of the transitional period, submit a report on conditions of taxation or exemption of these operations;

Article 28(h) to (j) unchanged

Amendment No. 20

Article 28(k)(3)(b), second subparagraph

The invoice shall also state in respect of transactions referred to in point (b) of this Article 28 the VAT registration number of the taxable person supplying the goods and that of the person by whom they are acquired.

To read:

The invoice shall also state in respect of transactions referred to in point (b) and (f) of this Article 28 the VAT registration number of the taxable person supplying the goods or services and that of the person by whom they are acquired.

Amendment No. 21
Article 28(k)(6)

Add at the beginning of 6:

Where required by Member State tax or statistical authorities, every taxable person must be in a position to submit:

- a declaration for all the supplies referred to in points (a) and (b) of this Article 28, and for all the services referred to in point (f) of this Article 28, supplied during the preceding month to taxable or non-taxable persons within the meaning of Article 4(5) established in the Community but not in the same country as the supplier of the services;
- a declaration for all transactions referred to in point (c) of this Article 28 and all services referred to in point (f) of this present Article 28, performed during the previous month for the person liable for the declaration by a supplier of services established in another country in the Community.

The declaration shall state for each supply referred to in point (b) of this Article 28, for each acquisition referred to in point (c) of this Article 28 and for each service referred to in point (f) of this present Article 28, the date and the number of the transaction and the VAT registration number of the taxable person who has performed it and that of the person by whom the goods or services are acquired as well as the amount of the transaction as shown on the invoice.

Member States may require a taxable person to submit a statement including the information specified in paragraph 4 and concerning all transactions carried out the preceding year. This statement shall also provide all the information necessary for any adjustments.

rest unchanged

Amendment No. 22
Article 28(k) (9)

With the exception of the obligation to issue invoices in respect of supplies specified in point (b) Member States may release taxable persons:

- from certain other obligations;
- from all other obligations where those taxable persons carry out only exempt transactions;
- from the payment of the tax due where the amount is insignificant.

With the exception of the obligation to issue invoices in respect of supplies specified in point (b) and in respect of the services referred to in point (f) of this Article 28, and in respect of the declaration referred to in paragraph 6, first subparagraph, first indent of point (k) of this Article 28... the Member States may release taxable persons:

rest unchanged

Amendment No. 23
Article 28a (new)

By 1 July 1995 the Commission shall submit to the Council and Parliament a report on the operation of the transitional provisions and on preparations for the introduction of the definitive arrangements. The report shall consider:

- the impact of the abolition of restrictions on travellers' purchases;
- the degree of actual convergence of the common VAT rates of the Member States;
- the level of preparation for the establishment of a fair system of compensation.

Should the situation described in the report be considered unsatisfactory by the Council or Parliament, the Commission shall propose that the Council, acting by a qualified majority, decide to extend the transitional period.

Articles 3 to 7 unchanged

A

DRAFT LEGISLATIVE RESOLUTION

embodying the opinion of the European Parliament
on the Commission proposal and amended proposal
for a Council directive supplementing the common system of
value added tax and amending Directive 77/388/EEC - removal
of fiscal frontiers and transitional arrangements for
taxation
with a view to establishment of the internal market

The European Parliament,

- having regard to the Commission proposal and amended proposal to the Council (COM(87) 322 final/2 and COM(90) 182 final)²,
 - having been consulted by the Council pursuant to Article 99 of the EEC Treaty (C3-0026/89),
 - having regard to the report of the Committee on Economic and Monetary Affairs and Industrial Policy and the opinion of the Committee on Transport and Tourism (Doc. A3-0271/90),
1. Approves the Commission's proposal subject to Parliament's amendments and in accordance with the vote thereon;
 2. Calls on the Council to notify Parliament should it intend to depart from the text approved by Parliament;
 3. Asks to be consulted again should the Council intend to make substantial modifications to the Commission proposal;
 4. Instructs its President to forward this opinion to the Council and to the Commission and to the Parliaments of the Member States for information.

B

EXPLANATORY STATEMENT

I. THE OBJECTIVE OF REMOVING FISCAL FRONTIERS

1. The choice of a transitional system

If internal frontiers are to be removed and the Single Market attained by 1992, all the physical, technical and fiscal barriers dividing the Community must be eliminated. It is therefore necessary to align VAT, a major tax on goods and services (accounting for some 20% fiscal revenue in the Member States)³ the collection of which is the main purpose of the present border

³ See Annex I

controls. If unacceptable deflections of trade and distortions of competition and an increase in fraud are to be avoided, comprehensive harmonization of VAT is necessary, covering not only the arrangements for applying VAT but also the amount and number of rates and the basis of assessment of VAT.

The Commission's initial 1987 proposals took such a global approach. Essentially, these proposals provided for a system of payment of VAT at the rate of the country of origin and a reduction of the number of rates to two - a reduced and a standard rate within bands of 4 to 9% and 14 to 20% respectively.⁴ The Commission also proposed that the VAT collected by the Member States should be paid into a compensation fund which would restore the balance of the amounts due so as to ensure that the removal of internal frontiers would not affect revenues for the various national budgets.

In spite of Commission efforts to introduce more flexibility in its proposals⁶, the Council made the point that a general agreement on the tax arrangements in the country of origin proposed by the Commission could not be concluded before 1 January 1993⁷. The Commission has therefore submitted a new proposal establishing transitional arrangements, providing notably for the application of the system of taxation in the country of destination, while ensuring that this does not in any way impede the removal of border controls in 1992. However, the Commission's objective is still to establish a definitive system of taxation in the country of origin by 31 December 1996 at the latest in order to ensure identical treatment in each Member State of nationals and nationals of other Member States, thereby giving concrete expression to the removal of fiscal frontiers.

Although this approach is unsatisfactory - since it does not lead to the immediate removal of these frontiers - it forms the basis of the only possible compromise. To reject this approach would be tantamount to maintaining existing fiscal controls beyond 1992 or eliminating them under conditions liable in effect to lead to deflection of trade and downward fiscal harmonization which would be unacceptable for a number of Member States for budgetary reasons.

⁴ See Annex II

⁶ Commission communication COM(89) 260, 18 May 1989

⁷ ECOFIN Council of 9 October 1989

This does not, however, mean that the transitional system in question can be endorsed in every respect.

2. The general conditions of application of the transitional system

If the ultimate objective of removing physical barriers is to be attained, the proposed transitional arrangements must not only be amended and improved in certain respects, they must also meet a number of general conditions.

(a) The irrevocability of the passage to definitive arrangements

The length of the transitional period must be clearly fixed in order to ensure that the process leading to the equal fiscal treatment of all Community nationals from 1 January 1997 is irreversible. However, given the economic and budgetary consequences of the definitive arrangements, the passage to the definitive arrangement must involve an agreement on the number and level of VAT rates and the compensation system.

(b) The transitional period as a dynamic process

The transitional period must acquire a momentum of its own, paving the way for the establishment of the definitive arrangements. The transitional period should not be used merely to establish the transitional VAT system which is in itself insufficient to ensure that the passage to the definitive removal of fiscal frontiers is irreversible. This transitional period should be conceived as a dynamic process characterized notably by:

- the progressive and complete abolition of tax relief and qualitative restrictions for travellers between now and January 1993, despite the problems this will create for a certain number of Member States (Belgium, Denmark, Ireland and Portugal)
- the approximation of the number and level of VAT rates. Recent efforts to achieve a convergence of the number and levels of VAT rates (notably recent reductions in the normal rate in Ireland and in the Netherlands and in the higher rates in France)⁸ must be continued and stepped up so as to achieve a convergence towards the middle of the tax bands adopted.⁹ The Member States will have to make commitments to this end.

If certain Member States are to maintain the zero rate of taxation it is clear that a number of conditions must first be met, notably regarding the social and non-movable nature of the goods and services attracting a zero rate of taxation. This problem concerns notably the United Kingdom, Ireland and Portugal and a reasonable compromise should be possible, respecting the fiscal and social traditions of these countries on the one hand and the need to prevent deflections of trade on the other.

Moreover, convergence must also involve harmonization of classifications of goods and services in the two rate bands.

⁸ See Annex III

⁹ See Annex IV

The main problem to be tackled is how bring about a sufficient alignment of VAT rates; this is an important economic and budgetary matter and the key to the establishment of the definitive VAT arrangements and the genuine removal of fiscal frontiers (most of the Member States concerned consider that the total abolition of restrictions on travellers' purchases is linked to an alignment of VAT rates although it might equally be seen as a lever to bring about such an alignment).

- taking into account the social and regional repercussions of the abolition of fiscal frontiers

The abolition of fiscal frontiers will have profound social repercussions for one profession in particular, notably customs officers and clearing agents.

The professional and geographic redistribution of customs administrations is the subject of the Mattheus programme which is progressing satisfactorily and efforts must be continued in this direction. Plans must also be made to integrate customs services in the fiscal administration authorities in those Member States where this is not yet the case. Governments must also hold a wide-ranging social dialogue with all the trade union organizations representing the employees concerned.

Special attention should be given to the case of clearing agents. These are private intermediaries between the customs authorities and the interested parties and currently they deal with between 50 and 80% of total consignments, depending on the Member State in question. Small specialized agencies will be most affected by the reduction in customs clearance operations after 1993. 50 000 persons may lose their jobs despite the redeployment of customs at the Community's external frontiers and in the Community's main commercial centres. The position with regard to duty-free sales, and the persons employed in this area, will also have to be examined to ascertain whether specific action will have to be taken.

A Community programme is therefore necessary to stagger job reductions and to facilitate the retraining of specialized staff; it should be financed notably from structural fund resources. The transitional period should be used to undertake these measures.

Finally, restaurants, hotels, petrol stations, etc., situated near Community frontiers are obviously threatened, and measures must therefore be taken in the frontier regions concerned.

During the passage to the implementation of the definitive VAT arrangements, account must be taken of the regional impact of changes in VAT rates in respect of certain goods: for instance the VAT rate applied to transport services in peripheral regions of the Community.

- the maintenance of the statistical machinery.

The entry into force of the transitional arrangements will be accompanied by an easing of the administrative and statistical burden on undertakings. For all customs documents and controls will be abolished and replaced by a single administrative form. Regular VAT declarations will be the main instrument for collecting VAT and controlling intra-Community transactions. Only 20% of undertakings - the largest ones in the Community which account for 80% of transactions - would be required to complete statistical forms. The overwhelming majority of SMUs will be released from the obligation of submitting any declaration or required to fill in simplified forms which will serve as a basis for extrapolations.

Measures should, however, be taken to ensure that this easing of formalities does not affect the reliability of Community statistics. The Community's statistical machinery is an indispensable instrument of economic policy and essential for combating tax fraud and evasion.

II. THE TRANSITIONAL ARRANGEMENTS PROPOSED BY THE COMMISSION

1. A transitional system

After the Council pointed out that it was impossible to conclude a general agreement on tax arrangements in the country of origin before 1 January 1993, the Commission added new transitional provisions to its initial proposal (COM(87) 322 final, amending the sixth Directive 77/388/EEC.

As the two additional recitals and the new Article 2 show, the aim of this transitional period is to facilitate the passage to the definitive system of taxation in the country of origin in line with the initial objective of the complete removal of fiscal frontiers. The transitional arrangements which seek to replace the present transitional arrangements set out in Article 28 of the Sixth Directive 77/388/EEC are due to expire on 31 December 1996 at the latest and are based on the principle of taxing taxable persons in the country of destination.

2. The taxation of taxable persons in the country of destination

Despite this principle, the transitional arrangements mean that intra-Community trade in goods will no longer be controlled at frontiers. For the supply of goods to taxable persons shall be exempt from tax in the country of departure of the goods in question (Article 2b) and generate an acquisition transaction in the country of arrival which shall be taxable under Article 2c. The two operations of supply and acquisition are based on the same legal events, notably the establishment of a supply/acquisition contract which is independent of the passage across the frontier. The chargeable event and chargeability coincide and occur at the time the acquisition transaction is carried out. The taxable amount of the acquisition is the same as that which would be applicable within the country concerned to the supply of the same goods, including expenses incidental to the acquisition (Commission, packaging, transport and insurance costs) in accordance with Article 11A(1) and (2) of the Sixth Directive.

During the transitional period the existing provisions regarding deductions shall be applicable to the VAT payable or paid on acquisitions. However, this tax does not give any right to deductions in another Member State.

The initial rules of territoriality in respect of deductions (Article 17(2) of the Sixth Directive) are reintroduced. The extension of the right to deductions to the whole of the Community is suspended during the transitional period.

Taxation itself involves a minimum of formalities. The principle amendments to Article 22 of the Sixth Directive concern the invoice which is given an important role to play. Every taxable person must return such an invoice for supplies of goods and services undertaken on behalf of another taxable or non-taxable person. The invoice must contain the VAT registration number of the taxable person supplying the goods or services and that of the person acquiring them. Intracommunity transactions will be subject to controls identical to those at present carried out on internal operations, i.e. they will be based on the usual commercial documents, notably invoices. The VAT will be calculated and paid on an intra-Community basis when periodic tax returns are made as occurred under the previous arrangements.

3. The specific arrangements

If taxable persons will be liable to taxation in the country of destination during the transitional period, non-taxable persons, and notably travellers, will be able to make acquisitions in any of the Member States at the rates and under the conditions obtaining within the country of origin of the goods without restriction (the present tax-free levels and quantitative restrictions on travellers' purchases will be abolished in 1993). In proposing that the purchases of non-taxable individuals should continue to be subject to taxation at the rates and under the conditions obtaining in the country of origin FROM 1993 TO 1996 the Commission has introduced a significant new element.

However, in a certain number of cases non-taxable individuals and non-taxable institutions and persons shall be liable to taxation in the country of destination in respect of a certain number of goods in order to minimize the risk of a geographical redistribution of trade linked to divergences in tax rates between Member States.

This applies to:

- mail-order sales to non-taxable persons and non-taxable institutional persons or to taxable persons exempt up to a ceiling of 35 000 ECU;
- sales of new private vehicles to a taxable person from a Member State whatever the VAT status of the purchaser;
- sales to non-taxable institutional persons and taxable persons totally exempt beyond a threshold of 35 000 ECU (total annual amount of tax-free purchases).

4. Extension of previous tax exemption arrangements

Small and medium-sized undertakings whose entire transactions are exempt under the tax exemption provisions laid down in Article 24 of the Sixth Directive are excluded from the arrangements concerning taxation in the country of destination. These undertakings which were exempt under the domestic tax system will thus continue to be exempt under the intra-Community arrangements.

Farmers who opt for the flat-rate scheme (Article 25 of the 6th Directive) are also excluded from the system of taxation in the country of destination.

III. PROBLEMS RAISED BY THE APPLICATION OF THE TRANSITIONAL ARRANGEMENTS

Although transitional VAT arrangements are undoubtedly necessary, the present proposal involves a number of difficulties. For the arrangements will only be acceptable if they prepare the way for the adoption of the definitive arrangements, if they contain sufficient guarantees to prevent fraud and if a number of individual points are fleshed out, improved and supplemented.

1. Preliminary steps in the passage to definitive arrangements

The fixing of the date of expiry of the transitional period on 31 December 1996 as provided for in Article 2 of Directive COM(90) 182 is in itself desirable.

However, the automatic entry into force of the definitive arrangements is only acceptable if a number of preliminary steps indicated above have been taken, and notably the realignment of VAT rates and the setting-up of a compensation system.

For on 1 January 1997 prices which will then include VAT will suddenly reflect the differences between national VAT rates, leading to a competitive situation. This is bound to have an impact on flows of transactions between taxable and non-taxable persons who do not reclaim VAT. To be sure, limited divergence is not incompatible with completion of the internal market - the US being a case in point ¹⁰ - but excessive divergence could lead to geographical shifts in economic activities and unacceptable budgetary losses for certain Member States.

The conclusions of the ECOFIN Council meeting on 9 October 1989 on the need for harmonization of VAT rates as soon as possible were not specific enough: real economic integration of the internal market will only be possible with an alignment of VAT rates.

Taxation in the country of origin and the movement of goods with VAT included presupposes the creation of a compensation mechanism. The entire VAT receipts must continue to be allocated to the country of final consumption. A compensation mechanism should then intervene to reconstitute to Member States the balance of the VAT paid. The Commission has, of course, submitted two successive proposals on this matter: the first - controversial - one on the basis of auditing, and the second based on a micro-economic approach using trade statistics.

¹⁰ See Annex IV

For these reasons, the passage to definitive arrangements should not be absolutely automatic. The Commission should draw up a report considering all aspects of the application of transitional arrangements and progress achieved in aligning rates of taxation, compensation and controls and submit this report to the Council and the European Parliament by 1 July 1995 at the latest accompanied by whatever proposals it judges necessary. Depending on the findings of this report, the date of 31 December 1996 could be brought forward, confirmed or postponed.

2. Guarantees against fraud and declaration requirements

The ECOFIN Council meeting of 9 October 1989 also stressed the need to implement effective anti-fraud measures. The proposal for a regulation COM(90) 183 final on administrative cooperation in the field of indirect taxation is a step in the right direction since it creates a new legal instrument of mutual administrative assistance.

During the transitional period particular care must be taken to ensure that the tax paid by traders on purchases made in other Member States are calculated correctly. For there is a risk that goods destined for exportation may be deflected to the domestic market by means of false invoices or registration numbers or, even more easily, by the failure to make delivery declarations. Close cooperation between the competent authorities of the Member States is necessary to prevent this and steps must be taken to ensure that, in response to a request for checks to be carried out, all firms are in a position to submit supporting documents to the authorities responsible.

3. Specific problems

Even in the transitional period the Commission proposal means that goods purchased by non-taxable persons will be taxed in the country of origin (at least when restrictions on travellers purchases are eliminated. However, because of the absence of a system of compensation and divergences between existing rates, the transitional arrangements include specific measures applicable to various categories of sensitive transactions.

(a) Mail-order sales

Since VAT rates are still not sufficiently harmonized, tax must continue to be applied in the country of destination in respect of mail-order transactions so as to avoid geographical shifts in economic activity. However, the scope of application of this specific arrangement is restricted to mail-order sales to individuals meeting the criteria of mail-order sales contracts (the contract must be concluded on the basis of a trader's catalogue, there must be continuity of contact between the trader and the consumer and the consumer must be entitled to return goods to the trader within a period of not less than seven days of receipt). Moreover, only undertakings whose annual turnover, exclusive of value added tax, in connection with mail-order selling to Member States other than that from which the goods are dispatched or transported exceeds 1m ECU are covered by the special arrangements governing mail-order sales. Mail-order undertakings whose annual turnover is less than 1m ECU shall, however, have the right to opt for the present system of taxation in the country of destination.

(b) The sale of new, private vehicles

In order to avoid the possible distortions resulting from divergencies between VAT rates which are still very considerable, sales of new, private vehicles by a professional taxable person, i.e. an agent (suppliers of private vehicles forming part of the seller's stock-in-trade) are liable to taxation in the country of destination on the basis of their acquisition in the Member State of consumption where they are first registered.

Consignments of commercial vehicles by a taxable person from one Member State to another Member State shall be exempt from these provisions. The same applies to used vehicles covered by the seventh VAT Directive. However, efforts will have to be made to provide, a precise definition of 'new vehicles' and to ensure that no distribution chains of used vehicles are set up between non-taxable individuals with the help of intermediaries, because this would mean that countries with low rates would benefit and attract geographical shifts in trade. Moreover, it is not clear why the Commission has failed to take account of other conveyances (private aircraft, yachts, etc.).

(c) Sales to non-taxable institutional persons and taxable persons exempt from taxation

Final consumers such as non-taxable institutional persons (public law and equivalent organizations) and taxable persons subject to exemption (banks and insurance companies) may account for a significant portion of sales in certain productive sectors, and notably investment goods. Special arrangements have therefore been drawn up to avoid the risk of a geographical shift in economic activity due to divergency in the rates of VAT. Taxation in the country of destination applies only where the total amount of purchases excluding VAT by these categories of non-taxable persons or taxable persons exceeds 35 000 ECU per year, which will be increased to 70 000 ECU from 1 January 1995.

4. The uniform application of VAT

The Commission document fails adequately to stress the need to use the transitional period to ensure that VAT is uniformly applied. As long as tax deduction and exemption arrangements vary so widely between Member States there will be distortions and inconsistencies incompatible with the emergence of a single market.

For example, the present arrangements for taxing passenger transport still vary enormously between Member States (levels of taxation) according to the various forms of transport (certain categories of sea and air transport are exempt while railways are not). A Commission proposal is therefore necessary to introduce more consistency in this area (all passenger transport services should, for example, be liable to a reduced rate of taxation).

If VAT is to be uniformly applied it is essential that the following directives be adopted between now and 31 December 1992 at the latest:

- the 7th Directive on special arrangements to be applied to used goods and works of art (Article 32, Directive 77/388/EEC),
- the 12th Directive on arrangements regarding expenses which do not give any right to VAT deductions,
- the 18th Directive on eliminating certain derogations provided for in Article 28(3) of the 6th Directive; to be supplemented,
- the 19th Directive on amendments to the 6th Directive with a view to improvements in the uniform application of a VAT system,
- the 22nd Directive harmonizing legislation on VAT as regards the particular arrangements applied to SMUs
- a new proposal for a directive on ships stores (amending that of 21 January 1980)
- a proposal for a directive on passenger transport
- a proposal on the taxation of gold transactions.

Finally, the Commission should consolidate the text of Directive 77/388/EEC, updating it and making it more readable.

IV. THE DEFINITIVE ARRANGEMENTS

It should be stressed that the advantage of the definitive arrangements is that they will establish a uniform tax status applicable to all Community nationals.

However, if this system is to function properly, a compensation mechanism must be set up to ensure that the tax paid in one Member State on export transactions is transferred to the Member State in which the goods and services provided are ultimately consumed. For even if the VAT rates are aligned, existing imbalances in trade between the various Member States of the Community show that such a measure is necessary.¹¹ Once rates had been approximated, a macroeconomic compensation mechanism might be simpler to operate as well as less controversial. It would require the maintenance of reliable statistical machinery in the Community.

¹¹ See Annex V

O P I N I O N

(Rule 120 of the Rules of Procedure)

of the Committee on Transport and Tourism
for the Committee on Economic and Monetary Affairs and Industrial Policy

Draftsman: Mr Jean-Louis BOURLANGES

At its meeting of 28 September 1990 the Committee on Transport and Tourism appointed Mr Bourlanges draftsman.

At its meeting of 22 October 1990 it considered the draft opinion and adopted the conclusions by 5 votes to nil, with 1 abstention.

The following were present for the vote: Amaral, chairman; Bourlanges, draftsman; Denys, Joanny, Porrazzini, Sarlis, Simpson and Visser.

1. The aim of this proposal is to establish transitional arrangements for collecting VAT between 1 January 1993 and the final introduction of the principle of 'taxation in the country of origin' proposed by the Commission in 1987 (COM(87) 322 final).

2. Reservations were expressed by the Committee on Transport concerning the latter proposal, since it provided for the introduction of new methods of taxation for goods and passenger transport within the Community. In particular, the Commission's plan to make air and sea transport services between Member States, which had so far been exempt, subject to VAT aroused serious reservations as regards policy on transport and tourism.

3. While these reservations must be borne in mind, the transitional arrangements covered by the present proposal do not entail any changes for the carriage of goods and passengers within the Community and there are thus no grounds for any objection in this respect.

4. Conclusions

For the above reasons the Committee on Transport and Tourism approves the Commission proposal.

BREAKDOWN OF TAX REVENUE IN THE COMMUNITY IN 1987

	B	DK	D	EL	EN	F	IRL	I	L	NL	P	UK	EUR 12
1) Total revenue	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
2) Direct taxation	39.3%	56.5%	34.0%	17.0%	29.6%	18.0%	30.0%	36.1%	42.4%	27.4%	19.4%	37.2%	31.1%
3) National insurance contributions	33.9%	3.7%	37.3%	32.6%	36.2%	43.0%	14.0%	34.3%	26.3%	42.7%	20.2%	18.1%	33.5%
4) Indirect taxation	24.7%	33.9%	25.4%	46.6%	30.4%	29.3%	42.5%	26.4%	24.4%	26.0%	49.3%	31.3%	28.0%
4a. Excise duties	4.6%	12.9%	6.5%	12.9%	7.1%	6.4%	17.2%	7.1%	9.1%	5.7%	17.3%	11.7%	7.9%
4b. VAT	15.3%	18.9%	15.7%	20.9%	16.9%	19.2%	20.2%	14.4%	13.5%	16.4%	20.9%	16.1%	16.7%
5) Estate duty and miscellaneous revenue	2.1%	5.9%	3.3%	3.7%	3.9%	9.8%	5.5%	3.1%	6.9%	3.9%	3.0%	13.3%	6.6%

LIST OF VAT RATES IN THE COMMUNITY MEMBER STATES

COMMUNITY MEMBER STATES	REDUCED RATE	REDUCED AND INTERMEDIATE RATE	INCREASED RATE
GERMANY	7	14	-
BELGIUM	1/6	17/19	25/25+0
DENMARK	-	22	-
SPAIN	6	12	33
GREECE	3/6	16	36
FRANCE	2, 1/5, 5/13	18, 6	25
IRELAND	10	23	-
ITALY	4/9	19	38
LUXEMBOURG	3/6	12	-
NETHERLANDS	6	18, 5	-
PORTUGAL	8	17	30
UNITED KINGDOM	-	15	-

(1) As at 1 March 1990

MEMBER STATES WHICH HAVE APPROXIMATED VAT RATES SINCE 1984

Standard rate

IRELAND

1984	35 %
1985	23 %
1986	25 %
1987	25 %
1988	25 %
1989	23 %

NETHERLANDS

1984	19 %
1986	20 %
1989	18,5 %

INCREASED RATE

FRANCE

1987	33,1/3 %
1988	28 %
1989	25/28 %
1990	25 %

IMPOIS SUR LES VENTES PRELEVES A UN STADE UNIQUE DANS LES DIFFERENTS ETATS DES ETATS-UNIS :
PRINCIPALES CARACTERISTIQUES
(En pourcentage de la valeur base non compléte)

Etat	Taux normal				Port en pourcentage des impôts sur les ventes dans le total des recettes fiscales des états après ajustement	Etat
	1970(1)	1975(1)	1980(1)	1985(2)		
Taux moyen E.U.				4.6		Taux moyen E.U.
Alabama	4	4	4	4	30.5	Alabama
Arizona	3	4	4	5	42.5	Arizona
Arkansas	3	3	3	4	33.6	Arkansas
Californie	4	4.75	4.75	4.75	35.4	Californie
Colorado	3	3	3	3	37.0	Colorado
Connecticut	5	6	7	7.5	44.5	Connecticut
Floride	4	4	4	5	47.7	Floride
Georgie	3	3	3	3	33.5	Georgie
Hawaï	4	4	4	4	50.1	Hawaï
Idaho	3	3	3	4	27.1	Idaho
Illinois	4	4	4	5	32.3	Illinois
Indiana	2	4	4	5	35.5	Indiana
Iowa	3	3	3	4	26.0	Iowa
Kansas	3	3	3	3	32.2	Kansas
Kentucky	2	3	3	5	31.7	Kentucky
Louisiane	5	5	5	4	31.1	Louisiane
Maine	4	4	4	5	34.7	Maine
Maryland	3	3	5	5	30.0	Maryland
Massachusetts	4	4	4	5	20.4	Massachusetts
Michigan	4	4	4	4	29.2	Michigan
Minnesota	3	4	4	6	22.9	Minnesota
Mississippi	5	5	5	6	51.2	Mississippi
Missouri	3	3	3.125	4.225	36.7	Missouri
Nebraska	2	2.5	3	3.5	35.1	Nebraska
Nevada	3	3	3	5.75	39.4	Nevada
New Jersey	3	5	5	6	24.1	New Jersey
Nouveau Mexique	4	4	3.75	3.75	42.2	Nouveau Mexique
New York	2	4	4	4	20.6	New York
Caroline du Nord	3	3	3	3	21.6	Caroline du Nord
Dakota du Nord	3	3	3	4	28.7	Dakota du Nord
Ohio	4	4	4	5	31.3	Ohio
Oklahoma	4	4	4	3.25	19.8	Oklahoma
Pennsylvanie	2	2	2	6	27.5	Pennsylvanie
Rhode Island	5	6	6	6	29.3	Rhode Island
Caroline du Sud	4	4	4	5	33.8	Caroline du Sud
Dakota du Sud	3.5	3.5	3.5	4	57.2	Dakota du Sud
Tennessee	4	4	4	5.5	53.4	Tennessee
Texas	4	4	4	4.125	43.4	Texas
Utah	4	4	4	4.625	41.5	Utah
Vermont	3	3	3	4	24.7	Vermont
Virginie	3	3	3	3	23.7	Virginie
Washington	4.5	4.5	4.5	6.5	40.7	Washington
Virginie Occidentale	3	3	3	5	17.6	Virginie Occidentale
Wisconsin	4	4	4	5	24.9	Wisconsin
Wyoming	3	3	3	3	41.8	Wyoming
District of Columbia	4	5	5	6		District of Columbia

1. Source: J.F. Due and J.L. Mikesell (1983).

2. En vigueur en décembre, 1985. Source: Significant Features of Fiscal Federalism, édition 1985-86.

MEMBER STATE EXTERNAL TRADE BALANCE, 1989

Balance of:	with: PARTNER										
	FRANCE	BELG.-LUXBG.	NETHERLANDS	FR GERMANY	ITALY	UTD. KINGDOM	IRELAND	DENMARK	GREECE	PORTUGAL	SPAIN
REPORTER											
FRANCE	0	-5286642	-2910221	-9592716	-900235	2290261	-1185312	-299773	452975	356274	629507
BELG.-LUXBG.	5274468	0	-3061463	-3711814	1999631	1561619	-299299	287906	352002	235571	829477
NETHERLANDS	3437912	2202795	0	3091362	3421250	3921056	-335559	562166	758272	204890	742071
FR GERMANY	11243279	3222911	-3147370	0	6762915	12102504	-690545	1187776	1304364	000218	1560454
ITALY	395787	-2695643	-3675522	-7761626	0	3334375	-520430	-343057	730212	1046467	270007
UTD. KINGDOM	-2107295	-804760	-3412619	-13161575	-3270327	0	632392	-1503690	254857	-166422	98777
IRELAND	1259462	484791	537648	822374	464742	-918614	0	27993	66337	16779	26576
DENMARK	444970	-297378	-750107	-1306737	355375	1434432	29942	0	159102	-70265	22836
GREECE	-408251	-424653	-782626	-1404856	-796439	-347217	-73042	-122010	0	-20546	18410
PORTUGAL	-260189	-320648	-204350	-660997	-1071150	137081	-5201	68185	77254	0	-108155
SPAIN	-990516	-697104	-559316	-5771060	-2330882	75626	-132501	-205423	168806	987344	