

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(82) 768 final

Brussels, 25 November 1982

Communication from the Commission to the Council

concerning the application of Article 30 of the Sixth Council Directive of 17 May 1977 on value added tax to a request for a derogation submitted by the Italian ~~Government~~

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Commission Communication to the Council concerning the application of Article 30 of the Sixth Council Directive of 17 May 1977 on value added tax to a request for derogation submitted by the Italian Government (1)

1. On 23 July 1982 the Italian Government informed the Commission, pursuant to the above provisions, of its intention to introduce into its national legislation a measure derogating from the Sixth Directive so as to allow, under a draft supplementary agreement to the Convention between Italy and Switzerland on the protection of their common waters against pollution, signed in Rome on 20 April 1972, the exemption from VAT of importations of equipment, fuels and consumable goods to be used in the case of emergency measures to combat accidental pollution of the common waters.
2. The Commission has informed the other Member States, by letter dated 25 August 1982, of the Italian Government's request.
3. In accordance with Article 30 of the Sixth Directive, the Council's decision shall be deemed to have been adopted if, within two months of the other Member States being informed as described above, the matter has not been raised before the Council.
4. Provided that the derogation proposed by the Italian Government is limited to the indications given in point 1 of this communication, the Commission does not intend to request that the matter be raised before the Council.
5. The Commission requests that the Council publish points 1 et 3 of this communication together with its decision in the Official Journal.

¹ OJ No L 145, 13.6.1977

Subject : Sixth VAT Directive - Article 30 Procedure - Draft Convention between Italy and Switzerland on the protection of their common waters against pollution.

Following upon the Convention on the protection of Swiss-Italian waters against pollution, signed in Rome on 20 April 1972 and ratified by Law No. 527 of 24 July 1978, the contracting parties have agreed on the necessity to enter into an additional agreement governing the procedures for implementing the Convention.

Article 10 of the draft agreement in question provides for the free movement across the frontier, with exemption from customs duty, of emergency supplies, motor fuel (with the exception of fuel in petrol tanks, in respect of which provisions has already been made for relief under the existing customs regulations) and consumable goods (mainly foaming agents and other chemicals), when pollution control measures are put into effect in the common waters (Lake Maggiore, Lake Lugano and stretches of water which mark the frontier or cross it).

In view of the fact that, as a general rule, each State looks after its own waters, the reliefs provided for in the agreement concern only exceptional measures taken in emergencies, such as the accidental escape or leakage of pollutants, which makes it necessary to carry out immediate repair and cleansing operations.

The operations are carried out to assist the adjacent Regions concerned (Lombardy and Piedmont) and only in the event of a national disaster.

The operations have no impact in terms of VAT, within the meaning of Article 7(4)(a) of Presidential Decree No. 633 of 26 October 1972, as subsequently amended, where they are carried out in the waters of Lake Lugano, since these waters are not national territory, within the meaning of Article 7 (1).

There has so far been only one instance of assistance by Switzerland in Italy, of one day's duration.

The cost of the materials used for an operation can be, on average, 10 million lire a day.

Since it is the intention of the Italian authorities to enter into the agreement in question, a copy of the draft agreement is enclosed, for the purpose of obtaining authorization pursuant to Article 30 of Directive 77/388/EEC.

D R A F T

Agreement

between the Swiss Federal Council and the Italian Government concerning
measures to control water pollution

With reference to the Convention between Switzerland and Italy on the protection of Swiss-Italian waters against pollution, signed in Rome on 20 April 1972,

the Swiss Federal Council
and
the Italian Government

have agreed as follows :

...

Article 7

- 1) The actual cost of providing assistance and the expenditure incurred as a result of the loss, damage or destruction of the materials used in such intervention shall be borne by the party requesting assistance.
- 2) Expenditure incurred as a result of any loss, damage or destruction caused by gross negligence on the part of the foreign emergency relief teams shall be excluded from the calculation.
- 3) Throughout the operations, the requesting party shall provide the relief teams with the means of subsistence and the necessary supplies of fuel and other materials.

...

Article 10

- 1) When assistance is requested, the competent personnel shall be authorized to cross the land or lake frontier at any time with their own equipment, even at points other than the authorized crossing points.

In the latter case, advance notice shall be given, including by telephone, to the nearest customs offices of entry and departure.

- 2) The head of the relief team shall be required only to produce a document certifying his capacity. He shall also provide a list of the persons accompanying him.
- 3) The authorization for free movement across the frontier shall include all the materials, equipment and means of transport necessary for the success of the relief operation. When the frontier is crossed, a list shall be produced of all the special emergency relief equipment.
- 4) The vehicles, boats and aircraft and the materials necessary for the operation shall be regarded as covered by the arrangements for temporary admission to the territory of the requesting party. Fuel and consumable goods shall be exempt from duties, taxes and charges in so far as they are used for the operation and throughout its duration.

...

Article 12

- 1) When the relief operation is completed, the persons, vehicles, boats, aircraft and emergency supplies shall return via an authorized crossing-point to the territory of the State to which application for assistance was made.
- 2) Those vehicles, boats, aircraft and items of equipment which, without good reason - a matter to be evaluated by the customs authorities of the other State - fail to return to their State of origin, shall be subject to the laws and regulations of the other State. The body which requested the assistance shall act as guarantor.

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