

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(82) 766 final

Brussels, 24 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 sub-
mitted by the Italian Government

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

1. In its communication dated 23 July 1982, the Italian Government notified the Commission, pursuant to the abovementioned provisions, of its intention to introduce into its national law a measure derogating from the Sixth Directive in the context of a draft Convention for the maintenance of the frontier between Italy and Austria, to replace the Convention signed in Vienna on 22 February 1929. This derogation would make it possible to exempt from VAT final importation of materials used for this maintenance work as well as motor vehicles, tools and equipment to be used for the same work.
2. The Commission informed the other Member States, by letter dated 23 September 1982, of the application by the Italian Government.
3. In accordance with Article 30 of the Sixth Directive, the Council's decision will be deemed to have been adopted if, within two months of the other Member States being informed, as indicated in point 2 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 to 3 of this communication together with its decision in the Official Journal.

(1) OJ L 145, 13.6.1977.

Subject : Sixth VAT Directive - Article 30 procedure - Draft Convention
for the maintenance of the frontier between Italy and Austria

It is the intention of the Italian authorities to enter into a new Convention for the maintenance of the frontier between Italy and Austria to replace the existing Convention signed in Vienna on 22 February 1929.

Articles 24 and 25 of the Convention lay down rules governing the crossing of the frontier by persons with materials, motor vehicles and instruments (Article 24) and the admission to the customs territory of equipment, motor vehicles and materials, etc. free of import and export duties, including VAT (Article 25).

The duty-free admission in question would thus be restricted to the following operations :

- the provision of services by Austrian firms using their own equipment and materials for the maintenance of that part of the frontier situated in Italian territory;
- imports into and purchases in the State of fuel used in the frontier maintenance operation, and throughout its duration, in Italian territory, with the exception of the fuel in the fuel tanks of the vehicles admitted under the temporary import procedure, within the meaning of the existing customs regulations;
- the materials for consumption admitted to the territory of the State and used in the maintenance work.

The materials (mainly sand, cement and, in rare cases, marble slabs) used in such work, and which are brought into Italian territory, amount to approximately 2/3 million lire a year.

A copy of the draft Convention in question is enclosed, for the purposes of the authorization procedure provided for in Article 30 of Directive 77/388/EEC.

DRAFT CONVENTION

between the Republic of Italy and the Republic of Austria for the maintenance of the frontier between Italy and Austria

For the purpose of laying down joint rules governing all matters relating to the maintenance of the State frontier between Italy and Austria, the Republic of Italy and the Republic of Austria have agreed as follows :

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MAINTENANCE AND DEMARCATION OF THE STATE FRONTIER

Article 5

1. The contracting States undertake to carry out the maintenance and demarcation of the State frontier so as to ensure that the frontier is always unequivocally defined and clearly visible on the terrain.
2. The contracting States shall, in particular, be required to :
 - (a) check the position of any frontier markers which are displaced and ensure that they are replaced in the right position;
 - (b) repair, straighten and raise respectively any markers which are unsteady or crooked or which have subsided;
 - (c) ensure that each marker is legible;
 - (d) repair or replace damaged markers;
 - (e) put up missing markers;
 - (f) mark the line of the frontier with new subsidiary markers, wherever it is not sufficiently clear;
 - (g) make the demarcation of the frontier indirect rather than direct, and vice versa, wherever this is considered necessary and desirable;
 - (h) move precarious makers to secure positions;
 - (i) mark the line of the frontier on bridges and tunnels in those sections in which the frontier intersects railway tracks or bridges and, where necessary, in mines and similar installations;
 - (j) determine, where necessary, the coordinates of frontier points which are not marked, in those sections in which the State frontier is described in the official documentation as following the line of a ridge or a watershed.

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Article 25

- 1. Materials transferred from the customs territory of one of the contracting States to that of the other to be used for the work provided for in this Convention shall be exempt from import and export duties.

Unused materials must be returned to the customs territory of the State from which they came.

- 2. The following shall be exempt from import and export duties and from the requirement of furnishing a guarantee, without prejudice to the requirement of re-exportation : motor vehicles, tools, equipment, instruments, apparatus and machinery, etc. admitted to the customs territory of the other contracting State for the work referred to in this Convention.

Within one month of the completion of the work, such materials must be returned to the customs territory of the State from which they came.

Any materials which are not repatriated shall be subject to customs duties, unless such materials are completely damaged or unfit for use.

- 3. For the purposes of this Convention, "import and export duties" means import and export duties and all other taxes and tariffs payable on the import and export of goods, with the exception of those for the provision of special services.

Other charges on the import and export of goods shall be treated in the same way as import and export duties.

- 4. The goods referred to in paragraphs 1 and 2 shall be exempt from prohibitions or restrictions on imports and exports, where they are used under the conditions provided for in this Convention.

- 5. The contracting States undertake to grant the facilities necessary for the simplification of the customs operations permitted under their own national law in respect of the import, export and transit of the goods used to carry out the work provided for in this Convention.

Customs assessment certificates shall be issued only where they are required for the purpose of customs control.

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Article 26

1. Motor vehicles, including trailers, registered in one of the contracting States and admitted temporarily to the other State in order to carry out the work provided for in this Convention shall not be subject to the road traffic tax of that State.

Transport operations carried out by such motor vehicles in the other State shall not be subject to taxation.

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