

## II

*(Preparatory Acts)*

## COMMISSION

**Proposal for a Council Directive completing and amending Directive 77/388/EEC  
— Removal of fiscal frontiers —***COM(87) 322 final/2**(Submitted by the Commission to the Council on 7 August 1987)**(87/C 252/02)*

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 99 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas completing the internal market, which is one of the fundamental objectives of the Community, requires that fiscal frontiers be abolished, that is to say that the system of remission of tax on exportation and the imposition of tax on importation and of frontier controls on taxable persons as well as on private persons be discontinued;

Whereas the abolition of the remission of taxation on exports and of the charging of tax on imports must not, as regards Community trade between taxable persons, interfere with the principle that the tax revenue arising from the application of the tax at the final consumption stage should be assigned to the Member State where that final consumption occurs;

Whereas consequently Council Directive 77/388/EEC <sup>(1)</sup>, last amended by the Act of Accession of Spain and Portugal, should be amended, and the Directives dealing with exemption at importation should be modified,

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

Directive 77/388/EEC is replaced by the following:

1. Article 2 (2) is replaced by the following:

‘2. The importation of goods from third countries’.

2. Article 7 is replaced by the following:

*‘Article 7*

Importation of goods shall mean the entry of goods from third countries into the territory of the country as defined in Article 3.’

3. Article 8 (2) is replaced by the following:

‘2. By way of derogation from paragraph 1 (a), where the place of departure of the consignment or transport of goods is in a third country, the place of the supply by the importer within the meaning of Article 21 (2) and the place of any subsequent supplies shall be deemed to be within the country of import of the goods.’

4. Article 9 (2) (b) is replaced by the following:

‘(b) the place where transport services are supplied shall be the place of departure.

“Place of departure” shall mean the place where the transport operation actually commences as given on the ticket or waybill, without taking any intermediate stops into consideration. However, where several suppliers in turn take part in the same transport operation, the place of departure shall mean each place where the service supplied by each such person begins. For the purposes of this provision, the place of departure for a feeder transport operation to a port, airport or, more generally, to the point where main transport operation starts shall not be regarded as the place of departure for that main operation.

In the case of an outward and inward transport operation, even if this is carried out by the same supplier of services, the return journey shall be regarded as a separate service, whose place of departure shall be determined in accordance with the previous subparagraph. However, with regard to outward and inward transport operations between one bank and the other of a waterway performed under a single contract,

<sup>(1)</sup> OJ No L 145, 13. 6. 1977, p. 1.

the place for the whole transport operation, shall be that where the outward journey commences.'

5. The introductory phrase of Article 9 (2) (e) is replaced by the following:

'the place where the following services are supplied when performed for customers established outside the Community, or for taxable persons established in the Community by suppliers established outside the Community, 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:'.

6. Article 11 B is amended as follows:

— Paragraph 1 is replaced by the following:

'1. The taxable amount shall be the value for customs purposes, determined in accordance with Council Regulation (EEC) No 1224/80 <sup>(1)</sup>.

<sup>(1)</sup> OJ No L 134, 31. 5. 1980, p. 1.'

— Paragraph 2 is deleted.

7. In Article 11 B (5), the words 'outside the Community' are added after the words 'have been temporarily exported'.
8. The following subparagraph is added to Article 13 B:
- '(i) supplies of gold to Central Banks.'
9. Article 13 C (b) is replaced by the following:
- '(b) the transactions covered in B (g) and (h) above.'
10. In Article 14 (1) (c), (d), (e) and (g), the words 'or which would (so) qualify (therefore) ... if they were imported from a third country' are deleted.
11. Article 14 (1) (f) is deleted.
12. The title of Article 15 is replaced by the following:
- 'Exemption of exports to third countries, like transactions and international transport'.
13. In Article 15 (1) and (2), the words 'outside the territory of the country as defined in Article 3' are replaced by the words 'outside the Community'.

14. Article 15 (3) is replaced by the following:

'3. the supply of services consisting of work on movable property acquired or imported for the purpose of undergoing such work within the territory as defined in Article 3, and dispatched or transported out of the Community by the person providing the services or by the customer if established in a third country or on behalf of either of them;'.

15. In Article 15 (4) (a), the words 'to third countries' are added after the words 'carrying passengers for reward'.
16. In Article 15 (6), the words 'to third countries' are added after the words 'for reward chiefly on international routes'.
17. Article 15 (11) is deleted.
18. In Article 15 (12), the words 'to third countries' are added after the words 'which export them'.
19. In Article 15 (13), the words 'to third countries' are added after the words 'the export of goods'.
20. In Article 15 (14), the words 'outside the territory of the country as defined in Article 3' are replaced by the words 'outside the Community'.
21. The second paragraph of Article 15 (14) is deleted.
22. Article 15 (15) is replaced by the following:
- '15. air and sea transport operations to or from the islands which make up the autonomous regions of the Azores and Madeira, or carried out between the said islands.'
23. Article 16 (2) is replaced by the following:
- '2. Subject to the consultation provided for in Article 29, Member States may opt to exempt imports for and supplies of goods to a taxable person intending to export them to third countries as they are or after processing, as well as supplies of services linked to that export business, up to a maximum equal to the value of exports to third countries during the preceding 12 months.'
24. In the introductory phrase of Article 17 (2), the words 'within the country' are added after the words 'for the purposes of his taxable transactions'.
25. In Article 17 (2) (a), the words 'liable to pay tax within the Community' are added after the words 'by another taxable person'.

26. The following subparagraph (d) is added to Article 17 (3):

‘(d) transactions exempted under Article 13 B (i).’

27. Article 17 (4) is replaced by the following:

‘4. As regards taxable persons not established within the territory of the Community, entitlement to a refund shall be determined in accordance with Council Directive 86/560/EEC <sup>(1)</sup>.’

<sup>(1)</sup> OJ No L 326, 21. 11. 1986, p. 40.’

28. The following subparagraph is added to Article (2):

‘Where deductible tax is expressed in the national currency of a Member State other than that in which it is to be deducted, or in the currency of a third country, the amount to be deducted shall be converted into the currencies of the taxable person’s country using the average exchange rate for the declaration period’.

29. The following subparagraph is added to Article 22 (4):

‘The return must also contain on the one hand a declaration of the total amount of VAT relating to transactions carried out for taxable persons in other Member States, and on the other hand a declaration of the total amount of deductible VAT relating to transactions carried out by taxable persons in other Member States. This provision shall not apply to taxable persons whose annual turnover does not exceed 35 000 ECU.’

#### *Article 2*

The provisions brought into force by the Member States under Article 28 of Directive 77/388/EEC shall cease to apply on 31 December 1992 at the latest in each of the Member States concerned.

#### *Article 3*

1. The following Directives shall cease to apply on 31 December 1992:

— Directive 79/1072/EEC,  
— Directive 83/182/EEC,  
— Directive 83/183/EEC,  
— Directive 74/651/EEC.

2. The following Directives shall cease to apply on 31 December 1992, in respect of intra-Community trade relations:

— Directive 69/169/EEC,  
— Directive 83/181/EEC.

#### *Article 4*

On a proposal from the Commission, the Council shall adopt the procedures which will make it possible to establish a clearing-house system with regard to VAT on intra-Community sales.

#### *Article 5*

Member States shall adopt the necessary provisions to comply with this Directive by 31 December 1992 at the latest. They shall notify the Commission immediately.

The Member States shall send the Commission the text of any provisions of national law which they adopt in the field governed by this Directive.

#### *Article 6*

This Directive is addressed to the Member States.