COMMISSION DECISION

of 24 November 1980

concerning requests for authorization submitted by the Grand Duchy of Luxembourg pursuant to Article 13 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77 concerning own resources accruing from value added tax

(Only the French text is authentic)

(80/1134/EEC, Euratom, ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources [1],

Having regard to Council Regulation (EEC, Euratom, ECSC) No 2892/77 of 19 December 1977 implementing, in respect of own resources accruing from value added tax, the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources [2], and in particular the first subparagraph of Article 9 (3) and Article 13 (2) thereof,

Having regard to the requests for authorization submitted by the Grand Duchy of Luxembourg,

Whereas the Grand Duchy of Luxembourg applies the method laid down in Title III, Section B of Regulation (EEC, Euratom, ECSC) No 2892/77 for calculating the basis for value added tax own resources (hereinafter referred to as 'VAT resources') for a given year ;

Whereas the Council and the Commission have agreed that any Member State which, when calculating the weighting of the various rates provided for in Article 7 (1) of Regulation (EEC, Euratom ECSC) No 2892/77, has specific difficulties in obtaining figures from national accounts for the penultimate year may be authorized by the procedure laid down in Article 13 of that Regulation to use figures relating to another year, which may not be earlier than the fifth year preceding the relevant budget year ;

Whereas Luxembourg has stated that it has such difficulties ;

Whereas, with regard to the transactions referred to in Article 9 (2) of Regulation (EEC, Euratom, ECSC) No 2892/77, the Member States determine the VAT resources basis, in accordance with paragraph 1 of that Article, from returns to be furnished by taxable persons in accordance with Article 22 of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — common system of value added tax : uniform basis of assessment [3] (hereinafter referred to as the 'Sixth Directive') and, when there is no return, or the return does not contain the necessary information, from appropriate data such as other tax returns, professional accounts and complete statistical series ; whereas, under the first indent of the first subparagraph of Article 9 (3) of the Regulation, they may be authorized in certain circumstances not to take into account, in calculating the VAT resources base, one or more of the categories of transactions listed in Annexes E and F to the Sixth Directive to which Article 9 (2) of the Regulation applies or under the second indent of the first subparagraph of 9 (3) of the Regulation to calculate the corresponding VAT resources basis by using approximate estimates ;

Whereas Luxembourg has submitted such requests for authorization to the Commission for cases where it considers that precise calculation of the VAT own resources basis would be likely to involve administrative burdens which would be unjustified in relation to the effect of the transactions in question on the total VAT resources basis of that Member State ;

Whereas in Luxembourg the only transaction out of those referred to in Article 13 (A) (1) (f) of the Sixth Directive that is exempt is the provision of services by medical or paramedical associations ;

(1) OJ No L 94, 28. 4. 1970, p. 19.
(2) OJ No L 336, 27. 12. 1977, p. 8.
(3) OJ No L 145, 13. 6. 1977, p. 1.

Whereas Luxembourg taxes services rendered by travel agencies acting on behalf and for the account of the traveller even in respect of travel outside the Community, but such cases are rare, and whereas such taxation increases revenue ;

Whereas in Luxembourg charges for admittance to sporting events are exempt, but there is no macroeconomic information on this sector ;

Whereas in Luxembourg transactions relating to the construction, setting out and maintenance of cemeteries, graves and monuments commemorating the war dead are exempt, but the aggregate value of these transactions notified by the Luxembourg authorities is negligible ;

Whereas in Luxembourg the management of credit or credit guarantees by a person or body other than the one which granted the credit is exempt, but the aggregate value of these transactions notified by the Luxembourg authorities is negligible ;

Whereas the Commission acknowledges that, in so far as these requests by Luxembourg are concerned, accurate calculation of the VAT resources would be likely to involve burdens which would be unjustified in relation to the effect of the transactions in question on the total VAT resources basis of that Member State ;

Whereas Luxembourg should be authorized, therefore, under the first indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, not to take into account, when calculating the VAT resources basis, the categories of transactions listed in Annexes E and F to the Sixth Directive which would require the abovementioned calculation to be made ;

Whereas, moreover, in Luxembourg telecommunications services supplied by public postal services and supplies of goods incidental thereto are exempt, but the Luxembourg authorities can construct a national basis corresponding to these transactions by means of figures taken from the accounts of the relevant public services ;

Whereas the supply of water by public authorities is exempt, but the notional basis corresponding to these transactions can be constructed from an annual survey conducted at the municipal authorities ;

Whereas Luxembourg should be authorized under the second indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77 to use approximate estimates in respect of these requests for calculating the VAT resources basis ;

Whereas in the early years of implementation of the Sixth Directive authorization should be granted annually ;

Whereas the Advisory Committee on Own Resources has approved the report recording the opinions of its members on this Decision,

HAS ADOPTED THIS DECISION :

Article 1

When calculating the weighting of rates as provided for in Article 7 of Regulation (EEC, Euratom, ECSC) No 2892/77, the Grand Duchy of Luxembourg is hereby authorized for 1980 to use figures taken from national accounts relating to 1976.

Article 2

When calculating the VAT resources basis for 1980, the Grand Duchy of Luxembourg is hereby authorized, pursuant to the first indent of the first subparagraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, not to take into account the following categories of transactions listed in Annex F to the Sixth Directive :

1. transactions referred to in Article 13 (A) (1) (f) of the Sixth Directive other than those supplied by medical or paramedical associations (Annex E, point 3) ;

2. services supplied by travel agencies acting on behalf and for the account of the traveller for journeys outside the Community (Annex E, point 15) ;

3. admission to sporting events (Annex F, point 1) ;

4. the supply of goods and services to official bodies responsible for the construction, setting out and maintenance of cemeteries, graves and monuments commemorating the war dead (Annex F, point 8) ;

5. the management of credit and credit guarantees by a person or body other than the one which granted the credit (Annex F, point 13).

Article 3

When calculating the VAT resources basis for 1980, the Grand Duchy of Luxembourg is hereby authorized, pursuant to the second indent of the first paragraph of Article 9 (3) of Regulation (EEC, Euratom, ECSC) No 2892/77, to use approximate estimates to

calculate the basis for the following categories of transactions referred to in Annex F to the Sixth Directive :

1. telecommunications services supplies by public postal services and supplies of goods incidental thereto (Annex F, point 5);

2. the supply of water by public authorities (Annex F, item 12).

Article 4

This Decision is addressed to the Grand Duchy of Luxembourg.

Done at Brussels, 24 November 1980.

For the Commission

Christopher TUGENDHAT

Member of the Commission