II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 22 July 1980

concerning requests for authorization submitted by the French Republic 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)

(80/821/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),

Having regard to the requests for authorization referred by the French Republic,

Whereas the French Republic 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, 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 called 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 that Regulation they may be authorized in certain circumstances not to take into account, in calculating the VAT resources basis, one or more of the categories of transactions listed in Annexes E, F and G to the Sixth Directive to which Article 9 (2) of that Regulation applies or, under the second indent of the first subparagraph of Article 9 (3) of that Regulation to calculate the corresponding VAT resources basis by using approximate estimates;

Whereas France has submitted to the Commission such requests for authorization concerning cases

(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.

where it considers that precise calculation of the VAT 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 France exempts the supply of services by means of agricultural machinery for individual or associated agricultural undertakings, but most of the undertakings in this sector have opted for taxation and the services of this kind supplied by undertakings which have not opted for taxation are therefore of marginal value ;

Whereas transactions carried out by workshops for the blind are exempted in France but, since French social legislation seeks to promote the employment of the blind in undertakings, there are few such workshops ;

Whereas transactions relating to the construction, setting out and maintenance of cemeteries, graves and monuments commemorating war dead are exempted in France, but the maintenance expenditure borne by the local authorities or at national level by specialist bodies is in any case minimal ;

Whereas in France the right to opt for taxation has been granted to radiologists for medical services exempted under Article 13 A (1) (c) of the Sixth Directive, but there are few such pratitioners ;

Whereas the Commission acknowledges that in so far as these requests by France 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 France should therefore be authorized 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 establishing the VAT resources basis, the categories of transactions listed in Annexes F and G to the Sixth Directive, which would require the above calculation to be made ;

Whereas in France admission to sporting events is exempted, but it is nevertheless possible to reconstitute the value added of this sector using tax data relating to entertainment tax ;

Whereas the supply of water by public authorities is exempted, but it is nevertheless possible to reconstitute the corresponding basis from French turnover tax statistics and the value of production given in the national accounts ;

Whereas it is possible to reconstitute the corresponding basis for supplies of recuperable material and fresh industrial waste which are exempted in France ;

Whereas France exempts transactions relating to gold bars, gold ingots and gold coins where such supplies are negotiated on the free gold market by persons trading in securities or money or any other persons in the exercise of their principal activity and/or where these supplies are made by a broker ; whereas part of the basis which has a not insignificant impact on the total VAT resources basis of that Member State should be estimated at least approximately ;

Whereas neither tax nor statistical date are available in France on the services of travel agents referred to in Article 26 of the Sixth Directive and those of travel agents acting on behalf and for the account of travellers for journeys within the Community ; whereas such services are exempted, although the corresponding basis can be reconstituted from balance of payments data ;

Whereas France 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 its 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 in which are recorded the opinions of its members on this Decision,

HAS ADOPTED THIS DECISION :

Article 1

When calculating the VAT resources basis for 1979, the French Republic 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 Annexes F and G to the Sixth Directive :

1. Supply of services by means of agricultural machinery for individual or associated agricultural undertakings (Annex F, point 3);

2. Transactions carried out by blind persons or workshops for the blind provided these exemptions do not give rise to significant distortion of competition (Annex F, point 7);

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

4. In the case of taxable persons who make use under Article 28 (3) (c) of the Sixth Directive, of the right of option for the taxation covered by paragraph 2 of Annex G to that Directive:

   Medical care provided in the exercise of the medical and paramedical professions as defined by the Member State concerned: medical care provided by certain radiologists (Annex G, under point 2).

Article 2

When calculating the VAT resources basis for 1979, the French Republic is hereby authorized pursuant to the second indent of the first subparagraph 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. Admission to sporting events (Annex F, point 1);

2. The supply of water by public authorities (Annex F, point 12);

3. Supplies of recuperable material and fresh industrial waste (Annex F, point 20);

4. Transactions concerning gold other than gold for industrial use (Annex F, point 26);

5. The services of travel agents referred to in Article 26 of the Sixth Directive, and those of travel agents acting in the name and on account of the traveller, for journeys within the Community (Annex F, point 27).

Article 3

This Decision is addressed to the French Republic.

Done at Brussels, 22 July 1980.

For the Commission

Christopher TUGENDHAT

Member of the Commission