COMMISSION

COMMISSION DECISION

of 9 June 1981

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

(Only the German text is authentic)

(81/478/Euratom, ECSC, EEC)

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 submitted by the Federal Republic of Germany,

Whereas the Federal Republic of Germany 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 a Member State which claims to have special difficulties in obtaining data from the national accounts for the last year but one for the purposes of calculating the breakdown by rate referred to in Article 7 (1) of Regulation (EEC, Euratom, ECSC) No 2892/77 may be authorized, in accordance with the procedure laid down in Article 13 of that Regulation, to use data relating to another year, which may not, however, be earlier than the fifth year preceding the financial year in question ;

Whereas the Federal Republic of Germany claims to be having 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 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 the Regulation, to calculate the corresponding VAT resources basis by using approximate estimates ;

[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 the Federal Republic of Germany has submitted to the Commission such requests for authorization for cases 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 in the Federal Republic of Germany the services of travel agents acting in the name and on account of the traveller are taxable even for journeys outside the Community, but such cases are insignificant, and this taxation increases revenue ;

Whereas in the Federal Republic of Germany transactions carried out by blind persons or workshops for the blind are exempted, although the undertakings concerned have the right to treat these transactions as taxable, if these transactions are carried out for another taxable person for use in his own business, but the number of these undertakings is small and moreover the amount of the transactions concerned is not very great ;

Whereas in the Federal Republic of Germany the management of credits and credit guarantees by a person or a body other than the one which granted the credits is exempted, but the German authorities allow the undertakings concerned to opt for taxation if the taxable transactions are carried out for another taxable person for use in his business ; whereas the consequence of this exempted activity is insignificant ;

Whereas the Commission acknowledges that in respect of these requests by the Federal Republic of Germany precise calculation of the VAT resources basis 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 the Federal Republic of Germany 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 Annex E and F to the Sixth Directive which would require the abovementioned calculation to be made ;

Whereas, in the case of those small undertakings for which in the Federal Republic of Germany certain are granted graduated tax relief, a compensatory adjustment should be made for the amount of taxes not collected as a result, and statistics exist which would enable the amount of the adjustment to be estimated ;

Whereas in the Federal Republic of Germany the supply of dental prostheses and the provision of services relating thereto by dental technicians as well as the supply of dental prostheses by dentists — where the dental prosthesis is made by the dentist — is taxed, but it is possible to constitute the relevant VAT own resources basis for such transactions from data relating to sickness insurance ;

Whereas in the Federal Republic of Germany telecommunications services and supplies of goods incidental thereto, supplied by public postal services, are exempted except for the provision and maintenance of secondary telephone equipment by the Federal German Post Office, but the German authorities can constitute the VAT own resources basis for these supplies from the accounts kept by these public services ;

Whereas in the Federal Republic of Germany the safekeeping and management of shares are exempted although undertakings are entitled to treat the transactions in question as taxable transactions if they are carried out for the sole benefit of another undertaking, but the German authorities can constitute the relevant VAT own resources basis for the transactions actually exempted from data furnished by bankers ;

Whereas in the Federal Republic of Germany the supply of land with new buildings and building land is exempted, although undertakings are entitled to treat the transactions as taxable transactions if they are carried out for another undertaking for its own needs, but the German authorities can constitute the relevant VAT own resources basis for the transactions actually exempted from statistical figures furnished by the Federal Statistical Office and professional housing bodies ;

Whereas in the Federal Republic of Germany passenger transport by boat (on inland waterways) is exempted, but the German authorities can constitute the relevant VAT own resources basis for this activity from the turnover of the undertakings concerned ;

Whereas, in response to its requests on these points, the Federal Republic of Germany should be 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 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 in which are recorded the opinions of its members of this Decision,

HAS ADOPTED THIS DECISION:

Article 1

In order to perform the breakdown by rate referred to in Article 7 (1) of Regulation (EEC, Euratom, ECSC) No 2892/77, the Federal Republic of Germany is hereby authorized for 1980 to use data obtained from the national accounts for 1977 or, if the data for 1977 is not available in time, from those of 1976.

Article 2

When calculating the VAT resources basis for 1980, the Federal Republic of Germany 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 E and F to the Sixth Directive:

1. The services of travel agents acting in the name and on account of the traveller for journeys outside the Community (Annex E, point 15).

2. Transactions carried out by blind persons or workshops for the blind (Annex F, point 7).

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

Article 3

When calculating the VAT resources basis for 1980, the Federal Republic of Germany 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 transactions for which tax was not collected because of the graduated tax relief granted under Article 24 (2) of the Sixth Directive and for certain categories of transactions listed in Annexes E and F to the Sixth Directive:

1. Transactions carried out by small undertakings enjoying graduated tax relief.

2. Supplies of dental prostheses and the provision of services relating thereto by dental technicians and supplies of dental prostheses by dentists when these prostheses are made by dentists themselves (Annex E, point 2).

3. Telecommunications services and supplies of goods incidental thereto supplies by public postal services, excluding the supply and maintenance of secondary telephone installations by the Federal Post Office (Annex F, point 5).

4. The safekeeping and management of securities (Annex F, point 15).

5. Supplies of those buildings and land described in Article 4 (3) of the Sixth Directive (land with new buildings and building land) (Annex F, point 16).

6. Passenger transport by boat (on inland waterways) (Annex F, point 17).

Article 4

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 9 June 1981.

For the Commission

Christopher TUGENDHAT

Vice-President