II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 25 February 1992

authorizing Portugal to use statistics for years earlier than the last year but one and not to take into account certain categories of transactions or to use certain approximate estimates for the calculation of the VAT own resources base

(Only the Portuguese text is authentic)

(92/164/EEC, Euratom)

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 Council Regulation (EEC, Euratom) No 1553/89 of 29 May 1989 on the definitive uniform arrangements for the collection of own resources accruing from value added tax [1], and in particular Article 13 thereof,

Whereas, under Article 28 (3) 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 [2], hereinafter called 'the Sixth Directive', the Member States may continue to exempt or tax certain transactions; whereas these transactions must be taken into account for the determination of the VAT resources base;

Whereas, for the application of the provisions in Article 28 (3) of the Sixth Directive, paragraph 3 (b) of Section IV (Taxation) of Annex XXXII to the Act of Accession of the Portuguese Republic to the European Communities [3] authorizes Portugal to exempt certain transactions listed in Annex F to the Sixth Directive;

Whereas, for the purposes of the breakdown of transactions by statistical category, Portugal is unable to use definitive figures from the national accounts relating to the last year but one before the financial year for which the VAT resources base is to be calculated; whereas Portugal should therefore be authorized to use the national accounts for years earlier than the last year but one;

Whereas precise calculation of the VAT own resources base for one category of transactions listed in Annex F to the Sixth Directive is likely to involve an unjustified administrative burden in relation to the minimal effect of these transactions on Portugal's VAT resources base; whereas Portugal should therefore be authorized not to take these transactions into account for the calculation of the VAT base;

Whereas Portugal is able to make a calculation using approximate estimates for four categories of transactions listed in Annex F to the Sixth Directive; whereas it should therefore be authorized to calculate the VAT base using approximate estimates;

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

[1] OJ No L 155, 7. 6. 1989, p. 9.
[2] OJ No L 145, 13. 6. 1977, p. 1.
[3] OJ No L 302, 15. 11. 1985, p. 383.

HAS ADOPTED THIS DECISION:

Article 1

For the breakdown by rate provided for in Article 4 (4) of Regulation (EEC, Euratom) No 1553/89, Portugal is authorized to use data from the national accounts relating to 1986 for the 1989 and 1990 financial years for which the VAT own resources base has to be calculated.

Article 2

For the purpose of calculating the VAT own resources base with effect from 1989, Portugal is authorized not to take into account the following category of transactions referred to in Annex F to the Sixth Directive:

— services supplied by authors, artists and performers (Annex F ex point 2).

Article 3

For the purpose of calculating the VAT own resources base with effect from 1989, Portugal is authorized to use approximate estimates in respect of the following categories of transactions referred to in Annex F to the Sixth Directive:

1. supply of services by means of agricultural machinery for individual or associated agricultural undertakings (Annex F, point 3);
2. services supplied by undertakers and cremation services, together with goods related thereto (Annex F, point 6);
3. treatment of animals by veterinary surgeons (Annex F, point 9);
4. supplies of those buildings and land described in Article 4 (3) (Annex F, point 16).

Article 4

This Decision is addressed to the Portuguese Republic.

Done at Brussels, 25 February 1992.

For the Commission

Peter SCHMIDHUBER

Member of the Commission