COUNCIL DECISION

of 15 February 1993

authorizing the French Republic to extend the application of a measure derogating from Article 2 of the sixth Directive (77/388/EEC) on the harmonization of the laws of the Member States relating to turnover taxes

(93/110/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to 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 [1], and in particular Article 27 thereof,

Having regard to Council Decision 89/683/EEC of 21 December 1989 authorizing the French Republic to apply a measure derogating from Article 2 of the sixth Directive (77/388/EEC) on the harmonization of the laws of the Member States relating to turnover taxes [2],

Having regard to the ensuing Commission proposal,

Having regard to the Commission report on the application of Decision 89/683/EEC,

Whereas, under Article 27 (1) of Directive 77/388/EEC, the Council, acting unanimously on a proposal from the Commission, may authorize any Member State to introduce or extend special measures for derogation from that Directive in order to simplify the procedure for charging value added tax (VAT) or to prevent certain types of tax evasion or avoidance;

Whereas, by letter registered by the Secretariat-General of the Commission on 22 October 1992, the Government of the French Republic requested authorization to extend application of the derogation previously granted to it for a limited period by Decision 89/683/EEC on the basis of Article 27 of Directive 77/388/EEC;

Whereas the Commission report on the application of the said measure over the period 1991 to 1992 has demonstrated the latter's usefulness and effectiveness in the waste-recovery sector, which is particularly vulnerable to fraud; whereas the said report finds that there is no reason to oppose extension of the derogation provided that the derogation is clearly limited over time, and expires in the short term;

Whereas the other Member States were informed on 20 November 1992 of the request from the Government of the French Republic,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Article 2 of Directive 77/388/EEC, the French Republic is hereby authorized, until 31 December 1996 and in respect of fresh industrial waste and recuperable material, to exempt from VAT:

(a) on the one hand, supplies made by:

— undertakings whose annual turnover is less than FF 500 000,

— undertakings which do not have a permanent establishment or which, although they have a permanent establishment, have achieved in the previous year a turnover figure in respect of such products of less than FF 6 million, unless they are authorized to subject such transactions to VAT;

(b) on the other hand, imports and intra-Community acquisitions.

Article 2

By way of derogation from Article 10 (2) of Directive 77/388/EEC, the French Republic is hereby authorized until 31 December 1996 to introduce in respect of supplies to taxable persons of fresh industrial waste and recuperable material in the form of non-ferrous metals and their alloys, where these supplies are not exempt from VAT on the basis of Article 1, arrangements suspending payment of VAT relating to these transactions.

The taxable persons receiving these supplies shall pay VAT on them where these products are intended neither for the export as such nor for the manufacture or resale as such of products liable to VAT.

[1] OJ No L 145, 13. 6. 1977, p. 1. Directive as last amended by Directive 92/111/EEC (OJ No L 384, 31. 12. 1992, p. 47).
[2] OJ No L 398, 30. 12. 1989, p. 31.

Article 3

In the light of a report from the Commission on the application of the authorizations referred to in Articles 1 and 2, accompanied, where appropriate, by a proposal for a Decision, the Council, acting on the basis of that proposal, shall decide, by 31 December 1996 at the latest, whether the said authorizations are to be extended.

Article 4

This Decision is addressed to the French Republic.

Done at Brussels, 15 February 1993.

For the Council

The President

M. JELVED