COMMISSION DECISION

of 14 July 1993

laying down detailed rules for determining the weighted average rate of VAT to be used in Germany for the calculation of the VAT own resources bases for 1991 to 1994

(Only the German text is authentic)

(93/448/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic 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 (2) thereof,

Whereas, in accordance with that Regulation, each Member State calculates the VAT own resources base for a given year by dividing the total net VAT revenue collected by a Member State during that year by the weighted average rate of VAT which is determined using the accounts for the last year but one before the year in question;

Whereas Germany has been authorized, for the purposes of determining the weighted average rate, to use the national accounts for the last year but two before the year in question; whereas this Member State should therefore determine the weighted average rate to be applied to the 1991 VAT base using the national accounts for 1988;

Whereas, following German unification, VAT revenue collected in Germany in 1991 was substantially higher than in earlier years, in particular because of the heavy consumption requirements of the inhabitants in the new Länder, who bought proportionally more goods at the higher rate of VAT; whereas, therefore, the structure of consumer spending subject to VAT on the territory of the Federal Republic of Germany in 1988 does not correspond to the structure of consumer spending subject to VAT in 1991 on the territory of unified Germany;

Whereas the weighted average rate determined by the German authorities using the definitive 1988 national accounts is 12,6427 %, while the rate determined by these authorities using the provisional 1991 national accounts is 12,8235 %, whereas use of the first rate to calculate the VAT own resources base for 1991 means that Germany would be obliged to pay more VAT own resources solely as a result of the technical mechanism for determining this rate whilst use of the second rate would mean that the VAT revenue collected in 1991 could be divided by the actual weighted average rate for that year and the appropriate VAT base would thus be calculated;

Whereas, because of the exceptional situation arising from German unification, Germany should be authorized to use, for calculating the VAT own resources base for 1991, the weighted average rate determined on the basis of the 1991 national accounts available at 31 December 1992;

Whereas the VAT own resources base for 1992 should be calculated, when the statement of the base is produced, using the weighted average rate determined from the most recent 1991 national accounts figures available at that time;

Whereas, however, since the effects of German unification on the structure of consumption subject to VAT on the territory of unified Germany in 1992 are probably not the same as in 1991, provision should be made for a new statement of the 1992 VAT own resources base to be produced and sent to the Commission by 31 July 1994, with the weighted average rate already used being replaced by the weighted average rate determined from the 1992 national accounts, provided that the latter weighted average rate is lower than the one already used;

Whereas the VAT own resources base for 1993 should be calculated using the weighted average rate determined from the 1992 national accounts;

Whereas provision should be made for the weighted average rate of VAT to be determined and taken into account, as regards the calculation of the 1994 VAT own resources base, in accordance with the first subparagraph of Article 4 (4) of Regulation (EEC, Euratom) No 1553/89;

Whereas the Advisory Committee on Own Resources has been consulted,

[1] OJ No L 155, 7. 6. 1989, p. 9.

HAS ADOPTED THIS DECISION:

Article 1

For the purpose of calculating the VAT own resources base for 1991, Germany shall determine the weighted average rate of VAT by breaking down operations by statistical category using the most recent 1991 national accounts figures available at 31 December 1992.

Article 2

1. For the purpose of calculating the VAT own resources base for 1992, Germany shall determine the weighted average rate of VAT by breaking down operations by statistical category using the most recent 1991 national accounts figures available when the statement for that base is produced.

2. The weighted average rate determined in accordance with paragraph 1 shall be replaced by the weighted average rate determined in accordance with Article 3 provided that the latter weighted average rate is lower than the one already used.

The VAT resources base for 1992 shall in such circumstances be amended accordingly, and the statement of this amended base shall be sent to the Commission by 31 July 1994.

Article 3

For the purpose of calculating the VAT own resources base for 1993, Germany shall determined the weighted average rate of VAT by breaking down operations by statistical category using the most recent 1992 national accounts figures available when the statement for that base is produced.

Article 4

For the purpose of calculating the VAT own resources base for 1994, Germany shall determine the weighted average rate of VAT by breaking down operations by statistical category using figures taken, in accordance with the first subparagraph of Article 4 (4) of Regulation (EEC, Euratom) No 1553/89, from the most recent 1992 national accounts available when the statement for that base is produced.

Article 5

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 14 July 1993.

For the Commission

Peter SCHMIDHUBER

Member of the Commission