COUNCIL DECISION

of 19 March 2001

amending Article 1 of Decision 1999/80/EC authorising the Italian Republic to apply a measure derogating from Articles 2 and 10 of the Sixth Directive 77/388/EEC on the harmonisation of the laws of the Member States relating to turnover taxes

(2001/244/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Sixth Council Directive 77/388/EEC of 17 May 1977 ([1]) on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment, and in particular Article 27 thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) Pursuant to Article 27(1) of the Sixth VAT Directive, the Council, acting unanimously on a proposal from the Commission, may authorise any Member State to introduce or extend special measures for derogation from that Directive in order to simplify the procedure for charging the tax or to prevent certain types of tax evasion or avoidance.

(2) By letter registered with the Commission's Secretariat-General on 19 September 2000, the Italian Republic requested authorisation to extend the application of the derogation previously granted to it by Decision 1999/80/EC ([2]).

(3) The other Member States were informed on 17 October 2000 of the said request.

(4) The derogation in question is designed:

(a) to exempt, without granting a right to deduction of input tax, supplies of scrap metal and other recyclable materials made either by firms which have a fixed establishment and a generated turnover excluding tax of not more than ITL 2 billion during the previous year or by firms which do not have a fixed establishment;

(b) to grant to firms which have a fixed establishment and a generated turnover excluding tax of between ITL 150 million and ITL 2 thousand million during the previous year, the right to opt for the normal taxation arrangements;

(c) to apply the VAT suspension arrangements with the right to deduct input tax, to supplies of non-ferrous scrap, irrespective of the turnover excluding VAT of the firm making them.

(5) This measure has proven to be an effective means of combating the evasion or fraud and the legal and factual circumstances which justified granting authorisation to apply a derogation have not changed and still obtain.

(6) On 7 June 2000 the Commission published a strategy to improve the operation of the VAT system in the short term, including the modernisation, simplification and the countering of abuse of the current rules while moving towards greater uniform application.

(7) In the context of this strategy the Commission would expect fewer derogations but pending reflection on this area, the Commission accepts that this measure significantly counters abuse of the VAT system.

(8) It is appropriate, therefore, to extend the period of the authorisation granted until 31 December 2003 pending an assessment of the compatibility of this measure with the overall approach to the system of VAT.

(9) The derogation has no adverse impact on the European Communities' own resources accruing from VAT,

HAS ADOPTED THIS DECISION:

Article 1

Article 1 of Decision 1999/80/EC shall be replaced by the following:

'*Article 1*

The Italian Republic is hereby authorised until 31 December 2003 to apply a special measure for taxation of used and waste materials that contains provisions derogating from the Sixth Directive 77/388/EEC.

The provisions in question are laid down in Articles 2 and 3 below.'

Article 2

This Decision shall apply from 1 January 2001.

([1]) OJ L 145, 13.6.1977, p. 1. Directive as last amended by Directive 2001/41/EC (OJ L 22, 24.1.2001, p. 17).
([2]) OJ L 27, 2.2.1999, p. 24.

Article 3

This Decision is addressed to the Italian Republic.

Done at Brussels, 19 March 2001.

For the Council
The President
A. LINDH