II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 12 July 2002

authorising the Hellenic Republic to apply a measure derogating from Articles 2 and 28a of the Sixth Directive 77/388/EEC on the harmonisation of the laws of the Member States relating to turnover taxes

(2002/736/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 on the harmonisation 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(1) thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) By letter registered with the Secretariat-General of the Commission on 15 November 2001, the Greek Government requested authorisation to apply special tax measures to the recyclable waste sector.

(2) The other Member States were informed of that request on 22 November 2001.

(3) The derogation in question is to exempt the supplies and intra-Community acquisitions of recyclable waste, such as scrap iron, waste of iron and steel, glass, paper and board, by taxable persons whose sales of such products in the previous year amounted to less than EUR 900 000. In addition, it is intended to exempt the supplies and intra-Community acquisitions of non-ferrous metal waste, regardless of the trader's gross turnover.

(4) Taxable persons whose transactions are covered by the exemptions set out in the special tax measures may, subject to the conditions laid down by the Hellenic Republic, be authorised not to apply the exemptions to their transactions.

(5) These special tax measures constitute an effective fraud-prevention measure in a sector in which collecting VAT is rendered particularly awkward by the difficulty of identifying and supervising activities.

(6) These special tax measures therefore satisfy the conditions laid down in Article 27 of Directive 77/388/EEC.

(7) In its communication of 7 June 2000 to the European Parliament and the Council, the Commission published a strategy to improve the operation of the VAT system in the short term including a rationalisation of the large number of derogations currently in force. In some cases, however, this rationalisation could involve extending particularly effective derogations to all Member States.

(8) It therefore seems advisable to grant the derogation until 31 December 2003, thereby permitting an assessment of its compatibility with the overall approach to the system of VAT, and in particular the rationalisation of derogations.

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

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Directive 77/388/EEC, the Hellenic Republic is hereby authorised to apply until 31 December 2003 special measures for the taxation of recyclable waste (hereafter called 'the special regime').

[1] OJ L 145, 13.6.1977, p. 1. Directive as last amended by Directive 2001/4/EC (OJ L 22, 24.1.2001, p. 17).

Article 2

By way of derogation from Article 2 of Directive 77/388/EEC, the following shall be exempt from VAT:

(a) supplies of recyclable waste, such as scrap iron, waste of iron and steel, glass, paper and board, by traders with a turnover of less than EUR 900 000;

(b) supplies of non-ferrous metals.

Article 3

By way of derogation from Article 28a(1)(a) of Directive 77/388/EEC, the following shall be exempt from VAT:

(a) intra-Community acquisitions of recyclable waste, such as scrap iron, waste of iron and steel, glass, paper and board, by traders with a turnover of less than EUR 900 000;

(b) intra-Community acquisitions of non-ferrous metals.

Article 4

In order to calculate the ceiling of EUR 900 000 under Articles 2 and 3, the turnover for non-ferrous metals may be disregarded.

Article 5

The Hellenic Republic shall allow those taxable persons who so request it, not to apply the special regime to their supplies and intra-Community acquisitions, under such conditions as it may see fit to ensure that the VAT obligations of the taxable person are properly met.

Article 6

This Decision is addressed to the Hellenic Republic.

Done at Brussels, 12 July 2002.

For the Council

The President

T. PEDERSEN