COUNCIL DECISION

of 14 June 2004

amending Decision 98/20/EC authorising the Kingdom of the Netherlands to apply a measure derogating from Article 21 of the Sixth Directive 77/388/EEC on the harmonisation of the laws of the Member States relating to turnover taxes

(2004/516/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 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 Secretariat-General of the Commission on 26 November 2003, the Dutch Government requested the extension of Decision 98/20/EC [2] authorising it to apply special tax measures to the ready-to-wear clothing industry.

(3) The other Member States were informed of the Netherlands' request on 14 January 2004.

(4) Decision 98/20/EC, authorised the Kingdom of the Netherlands to introduce in the ready-to-wear clothing industry a scheme for shifting the subcontractor's obligation to pay over VAT to the tax authorities from the subcontractor to the clothing firm (the contractor).

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

(6) On 7 June 2000 the Commission published a strategy to improve the operation of the VAT system in the short term, in which it undertook to rationalise the large number of derogations currently in force. In some cases however, this rationalisation could involve extending certain particularly effective derogations to all Member States. The Commission's communication of 20 October 2003 reiterates this compromise.

(7) The requested measure is to be considered first and foremost as a measure to prevent certain types of tax evasion in the ready-to-wear clothing industry.

(8) The Kingdom of the Netherlands should be granted an extension for the current derogation until 31 December 2006 .

(9) The derogation has no adverse impact on the European Communities' own resources accruing from VAT nor does it affect the amount of VAT charged at the final stage of consumption.

(10) In order to ensure legal continuity, this Decision should apply as from 1 January 2004,

HAS ADOPTED THIS DECISION:

Article 1

Decision 98/20/EC is hereby amended as follows:

— in Article 1 the date '31 December 2003' shall be replaced by '31 December 2006'.

Article 2

This Decision shall apply from 1 January 2004.

Article 3

This Decision is addressed to the Kingdom of the Netherlands.

Done at Luxembourg, 14 June 2004.

For the Council

The President

B. COWEN

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[1] OJ L 145, 13.6.1977, p. 1. Directive as last amended by Directive 2004/15/EC (OJ L 52, 21.2.2004, p. 61).

[2] OJ L 8, 14.1.1998, p. 16. Decision as amended by Decision 2000/435/EC (OJ L 172, 12.7.2000, p. 24).