II

(Acts whose publication is not obligatory)

COUNCIL

TWENTIETH COUNCIL DIRECTIVE

of 16 July 1985

on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax : derogations in connection with the special aids granted to certain farmers to compensate for the dismantlement of monetary compensatory amounts applying to certain agricultural products

(85/361/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas Council Regulation (EEC) No 855/84 of 31 March 1984 on the calculation and dismantlement of the monetary compensatory amounts applying to certain agricultural products (4) provided for an adaptation of the representative rates which, in the case of the Federal Republic of Germany, must, on 1 January 1985, entail lower prices when expressed in national currency and consequently lower farm incomes ; whereas, by way of compensation, the possibility of granting special national aids to which the Community would contribute on a temporary and degressive basis was provided for in that Regulation ;

Whereas Article 3 of the said Regulation thus authorized Germany to grant a special aid, using value added tax as an instrument, of an amount not exceeding 3 % of the price excluding VAT paid by the purchaser of the agricultural product ;

Whereas Council Decision 84/361/EEC of 30 June 1984 concerning an aid granted to farmers in the Federal Republic of Germany (5), authorized Germany to exceed this limit and to apply a percentage of 5 % for the period between 1 July 1984 and 31 December 1988 ; whereas, as a result, it is necessary that this Directive shall apply from 1 July 1984 ;

Whereas, however, the compensation thus granted should not exceed the effects of the dismantlement of monetary compensatory amounts ;

Whereas the temporary and degressive nature of the consequences of the dismantlement of monetary compensatory amounts requires that the period for which the special aid of 3 % is to be granted should be limited to 31 December 1991 ;

Whereas it is necessary that Germany takes steps to ensure that the own resources relating to the transactions covered by this Directive are not affected by the application of this Directive ;

(1) OJ No C 214, 14. 8. 1984, p. 8 and OJ No C 131, 30. 5. 1985, p. 12.
(2) OJ No C 122, 20. 5. 1985, p. 152.
(3) OJ No C 307, 19. 11. 1984, p. 33.
(4) OJ No L 90, 1. 4. 1984, p. 1.
(5) OJ No L 185, 12. 7. 1984, p. 41.

Whereas, having regard to the purpose for which Germany has been authorized to grant the special aid, it is necessary for the measures taken in pursuance of that authorization and by virtue of this Directive to be reviewed and evaluated by the Commission ; whereas this may conveniently be effected by means of an annual report to be presented to the European Parliament and the Council ;

Whereas, in the framework of this Directive, the Commission is to fix, on the basis of the information provided by Germany and after consultation of the Advisory Committee on VAT Own Resources, the definitive amount of VAT own resources due by Germany relating to transactions covered by this Directive,

HAS ADOPTED THIS DIRECTIVE :

Article 1

By way of derogation from Directive 77/388/EEC, Germany is hereby authorized to use value added tax in order to grant the special aid permitted in Regulation (EEC) No 855/84 and Decision 84/361/EEC.

Article 2

1. Value added tax may be used as an instrument to grant the aid only within the limit of 3 % authorized in Article 3 of Regulation (EEC) No 855/84.

2. However, in accordance with Decision 84/361/EEC, the percentage referred to in paragraph 1 may be increased up to 5 % until 31 December 1988.

Article 3

Germany shall take the necessary steps to ensure that the own resources relating to the transactions covered by this Directive are not affected by the application of Articles 1 and 2.

Article 4

The Commission shall draw up a report each year on the operation of the aid mechanism during the previous year, which shall be submitted to the European Parliament and the Council by 1 March of the following year at the latest ; the report should contain details of the measures taken by Germany and their implementation, having particular regard to the objectives pursued in setting up the aid mechanism, fiscal neutrality and the effects of the measures on the Community's own resources.

Article 5

On the basis of the information to be provided by Germany, and after consultation of the Advisory Committee on VAT Own Resources, the Commission shall decide the definitive amount of VAT own resources due by Germany relating to the transactions coverd by this Directive. For this purpose, a special deadline appropriate to this procedure shall be adopted by appropriate amendments of the general rules concerning own resources.

Article 6

Germany shall communicate to the Commission details of the measures which it adopts for the application of this Directive.

Article 7

This Directive shall be applicable with effect from 1 July 1984 until 31 December 1991 at the latest.

Article 8

This Directive is addressed to the Federal Republic of Germany.

Done at Brussels, 16 July 1985.

For the Council

The President

M. FISCHBACH