



IP(82) 241

**PRESSE-MEDDELELSE • MITTEILUNG AN DIE PRESSE • PRESS-RELEASE • INFORMATION A LA PRESSE
ΑΝΑΚΟΙΝΩΣΗ ΓΙΑ ΤΟΝ ΤΥΠΟ • INFORMAZIONE ALLA STAMPA • MEDEDELING AAN DE PERS**

Brussels, 30 September 1982

Extracts from a Speech delivered by Mr. Christopher Tugendhat, Vice-President of the Commission of the European Communities, to the Third European Congress of Tax Consultants in Aachen, 30, September, 1982

TAX FREE SHOPS AND THE BUTTERSHIPS CASE

European Commission Vice-President Christopher Tugendhat confirmed today that the Commission fully recognised the economic importance of tax-free shops within the Community and had no intention of abolishing them.

Mr. Tugendhat gave the assurances in a speech delivered at the Third European Congress of Tax Consultants at Aachen, Federal Republic of Germany.

Here is the relevant extract of his speech: (Full text also available)

"Let me round off this part of my survey by telling you where we stand on the vexed question of tax-free shops and butterships.

The Commission has had to consider the status of tax-free shops and travellers' allowances from time to time in the past but the current controversy arises out of the European Court's judgment of 7th July, 1981 in the butterships case (Case 158/80 REWE). The main thrust of the Court's judgment is simply that the practice of selling goods duty-free and tax-free on sham voyages to just outside territorial waters is incompatible with Community law. There is however a passage in the judgment to the effect that in intra-Community travel the sale of third country goods in tax-free shops is not permitted unless the Community customs duties and agricultural levies have been paid.

As a result of this judgment the Commission decided to seek enforcement both of the element calling for abandonment of butterships and of the element calling more generally for the levying of customs duties and agricultural levies in tax-free shops in relation to intra-Community trade. Indeed, as various members of the tax-free trade have admitted to us, the Commission could hardly have done anything less. At the same time however the Commission indicated that it had no intention of taking any further initiative in relation to tax-free shops. The Commission has made this point on numerous public and private occasions.

In April this year the Commission started infringement proceedings against the Member States under Article 169 of the Treaty to seek implementation of the butterships judgment. None of the cases has reached the stage of a reference to the European Court. The Commission is still studying the replies of the Member States to the Commission's first formal letter, but it looks as though

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the Member States will now implement both elements of the judgment by the turn of this year, thus avoiding the need to go on to the Court.

Those involved in the tax-free trade have nevertheless voiced concern that the Commission's action in seeking implementation of the butterships case in some way spells the end of tax-free shops. As I have indicated this is certainly not the Commission's objective. Indeed we fully recognise the economic importance of these sales. Our action only related to third-country goods sold in intra-Community trade; it leaves untouched duty-free sales in travel to third countries and it leaves untouched sales free of VAT and excise duty on goods sold in intra-Community trade. Our information suggests that third country goods sold in Community tax-free shops represent at the moment not more than 20% of total sales (principally optical goods, bourbon whisky and Cuban cigars), and less than that in sales in intra-Community trade. Of course a change in the mix of goods sold could help to compensate for any loss of income on third country goods. And the inclusion of customs duties and agricultural levies in prices charged will in any event have a fairly small effect by comparison with the VAT and excise duty exemptions which are much more significant. I hope therefore that the trade will now be satisfied that the Commission has no designs on tax-free shops.
