

# COMMISSION OF THE EUROPEAN COMMUNITIES

This document cancels and  
replaces Doc. COM(80) 258 final  
of 22 May 1980

COM(80) 258 final/2

Brussels, 13 June 1980

Proposal for a  
COUNCIL DIRECTIVE

determining the scope of Article 14(1)(d) of Directive 77/388/EEC  
as regards exemption from value added tax on the final importation  
of certain goods

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(submitted to the Council by the Commission)

COM(80) 258 final/2

EXPLANATORY MEMORANDUM

1. Article 14(1)(d) of the Sixth Council Directive of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes<sup>1</sup> provides for an exemption from value added tax (VAT) in respect of final importation of goods which qualify for exemption from customs duties other than as provided for in the Common Customs Tariff or which would qualify therefor if they were imported from a third country.

2. Paragraph 2 of the same Article stipulates that the Commission shall submit to the Council at the earliest opportunity proposals designed to lay down Community tax rules clarifying the scope of the exemptions provided for in paragraph 1 and detailed rules for their implementation.

3. A Community system for tax reliefs is essential if further progress is to be made towards the objectives of the common system of VAT - a uniform basis of assessment, removal of distortions to competition and effective free movement of goods and services in the common market, in the interests of closer interpenetration of the Member States' economies.

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<sup>1</sup>OJ No L 145, 13.6.1977, p. 1.

4. In the customs field, the Commission has transmitted to the Council a proposal for a Regulation<sup>1</sup> setting up a Community system of reliefs from duties levied on the importation of certain goods under well-defined circumstances. The proposal is largely modelled on the measures in force in the Member States. The operations covered by the proposal are varied, as are the reasons adduced for their inclusion, such as humanitarian considerations or long-standing traditions, which have already prompted the signing of a number of multilateral international conventions.

5. Once adopted by the Council, the Regulation will be directly applicable in the Member States in the customs field. Where tax matters are concerned, the Member States will be obliged, under Article 14(1)(d) of the Sixth Directive, to grant an exemption from value added tax in respect of the importation of any goods that may be eligible for a relief provided for in the Regulation. The option that the Member States enjoy under that Article not to grant the exemption from VAT in the cases governed by the Regulation is confined to those cases in which the granting of such an exemption would be liable to have a serious effect on conditions of competition on the home market.

6. In the Commission's view, it is extremely important, notably where practical application of the exemptions is concerned, that the system of reliefs from customs duty and that of tax reliefs should be as closely linked as possible. Accordingly, the Commission proposes for VAT a system of tax reliefs that is modelled as closely as possible on the system of reliefs from customs duty.

However, the objectives pursued and problems encountered in the two fields concerned (customs and tax) are not necessarily identical.

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<sup>1</sup> Doc. COM(79)104 final, 14 March 1979.

The system proposed in the customs field is concerned exclusively with imports from third countries and grants derogations from the Common Customs Tariff, one particular purpose of which is to protect Community producers. The tax arrangements concern both intra-Community traffic and traffic from third countries, and moreover reliefs must not be allowed to jeopardize the general objectives of the common system of VAT. It follows that, while some reliefs from customs duty - granted, let us say, because of their negligible economic impact - can be mirrored in the tax system, there are others which, if incorporated in the tax system, might give rise to distortions in the conditions of competition. Educational, scientific and cultural equipment, for which the Commission, borrowing from existing international conventions, proposes a relief from customs duty, fall into this category: a relief from tax could create distortions of competition harmful to producers of such equipment established in the country of importation. For this reason, the Commission has excluded such reliefs from the scope of this proposal.

Likewise, the Commission takes the view that the relief from tax should be more restrictive than that from customs duty in the case of importation of goods dispatched to charitable or philanthropic bodies for purposes relating to their general objectives or with a view to assisting the handicapped. It thus proposes that the tax relief be confined to goods donated to such bodies free of charge and with no commercial interest on the part of the donor.

In other cases, the Commission feels that, quite apart from any consideration relating to the conditions of competition an exemption from VAT is not justified. No relief is proposed for goods imported from a third country for the purpose of fitting out a second residence situated in the Community, since a relief of this kind might enable such goods to be acquired in any country without payment of tax, given that they would also be exempt upon exportation from the third country of provenance.

The Commission also considers that, for practical administrative reasons, there is no need to extend the list of specific reliefs to include certain goods which in practice can be exempted under more general provisions. Such is the case with:

- various documents, cheque books, printed forms and documents for transport purposes, and files, archives and other documents to be used in meetings which are of little value upon importation and should, therefore, be eligible for relief either as consignments of negligible value or as imports liable to a negligible amount of tax;
- ornamental funerary articles brought by persons attending a funeral, which can be exempted by applying the exemptions granted to travellers.

The relief for spare parts and equipment for aircraft registered in third countries is already catered for in the provisions of the Sixth VAT Directive concerning temporary admission.

7. The Commission, stressing once again the role that tax reliefs can play in simplifying frontier checks, notes that the very mechanisms of VAT make it possible to introduce certain exemptions on importation, especially where goods are imported by taxable persons within the meaning of Article 4 of Directive 77/388/EEC. This Directive stipulates that a taxable person established in the territory of the country is entitled to deduct the tax charged on goods imported for the purposes of his taxable transactions, while Council Directive 79/1072/EEC<sup>1</sup> (Eighth VAT Directive), which is due to enter into force on 1 January 1981, stipulates that a taxable person not established in the territory of the country is entitled to a refund of the tax charged on the importation of goods used for certain purposes.

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<sup>1</sup>OJ No L 331, 27.12.1979, p. 11.

Clearly, an exemption upon importation, as opposed to levy of the tax followed by deduction or refund, would be, in a number of specified cases, a welcome simplification both for the administration and for taxable persons.

Accordingly, the Commission proposes the introduction of a relief for stocks that are imported upon the transfer of activities from one Member State to another, as well as for capital goods that are imported under similar circumstances from a Member State or from a third country. It also proposes a relief for goods imported for use or consumption at an exhibition or similar event.

8. Again in the interests of simplifying matters, the Commission proposes a relief for consignments of negligible value and includes a provision whereby Member States may exempt imports of goods from the tax where the amount of tax due does not exceed 3 ECU.

9. The Commission feels that a sufficiently generous tax relief should be granted to pupils and students to make it easier for them to attend courses run by educational establishments situated in Member States other than that in which they are normally resident. It proposes, therefore, that the relief granted on goods imported by pupils or students resident in one Member State and coming to stay in another Member State for purposes of study should apply not only to personal effects - a concession already granted to students coming from third countries - but also to all study requisites, viz., all goods normally used by pupils and students for study or research purposes, such as technical works, textbooks, instruments, calculators and typewriters.

10. This proposal does not incorporate the Community tax exemptions in respect of goods of a non-commercial character imported by travellers in their personal luggage or in small consignments. These exemptions are already the subject of specific directives, both for imports from a Member State and for imports from third countries<sup>1</sup>. Nor does the proposal incorporate the tax exemptions applicable to personal property imported by individuals within the Community, which are dealt with in another proposal for a Directive<sup>2</sup> currently before the Council. All these exemptions concern not only value added tax but also other indirect taxes normally chargeable upon importation. Hence, in the interests of formal consistency, they should remain within the framework of specific directives.

11. Like the customs proposal, this proposal takes no account of the exemptions which are granted by a number of Member States under international conventions and the limited scope of which would not justify the formulation of Community rules. The Member States should, therefore, be permitted to maintain in force the special exemptions justified by the nature of frontier traffic and the privileges and immunities granted by them under cultural, scientific or technical cooperation agreements.

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<sup>1</sup> Directive 69/169/EEC (OJ No L 133, 4.6.1969), as last amended by Directives 78/1032/EEC and 78/1033/EEC (OJ No L 366, 28.12.1978);  
Directive 74/651/EEC (OJ No L 354, 30.12.1974), as amended by Directive 78/1034/EEC (OJ No L 366, 28.12.1978);  
Directive 78/1035/EEC (OJ No L 366, 28.12.1978).

<sup>2</sup> OJ No C 267, 21.11.1975.

Proposal for a Council Directive determining the scope of Article 14(1) (d) of Directive 77/388/EEC as regards exemption from value added tax on the final importation of certain goods

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Proposal for a Council Directive determining the scope of  
Article 14(1)(d) of Directive 77/388/EEC as regards  
exemption from value added tax on the final importation  
of certain goods

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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,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,  
Council of 17 May 1977

Whereas, pursuant to Article 14(1)(d) of Directive 77/388/EEC on the  
harmonization of the laws of the Member States relating to turnover  
taxes - Common system of value added tax : uniform basis of assessment<sup>1</sup>,  
Member States shall, without prejudice to other Community provisions  
and under conditions which they shall lay down for the purpose, inter  
alia, of preventing any possible evasion, avoidance or abuse, exempt  
Final importation of goods qualifying for exemption from customs duties  
other than as provided for in the Common Customs Tariff or which would  
qualify therefor if they were imported from a third country;

Whereas, in accordance with Article 14(2) of the abovementioned Directive,  
the Commission is required to submit to the Council proposals designed to  
lay down Community tax rules clarifying the scope of the exemptions  
referred to in paragraph 1 of the said Article and detailed rules for  
their implementation;

Whereas, while it is deemed desirable to achieve the greatest possible  
degree of uniformity between the system for customs duties and that for  
value added tax, account should be taken, in applying the latter system,  
of the differences as regards objective and structure between customs  
duties and value added tax;

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<sup>1</sup> OJ No L 145, 13.6.1977, p. 1

Whereas arrangements for value added tax should be introduced that differ according to whether goods are imported from third countries or from other Member States and to the extent necessary to comply with the objectives of tax harmonization; whereas the exemptions on importation can be granted only on condition that they are not liable to affect the conditions of competition on the home market;

Whereas certain reliefs at present applied in the Member States stem from conventions with third countries or with other Member States which, given their purpose, concern only the signatory Member States; whereas it is not expedient to define at Community level conditions for granting such reliefs, and whereas the Member States concerned need merely be authorized to retain them,

HAS ADOPTED THIS DIRECTIVE:

Article 1

The scope of the exemptions from value added tax referred to in Article 14(1)(d) of Directive 77/388/EEC is hereby determined as provided in this Directive.

Article 2

1. For the purposes of this Directive:

- "personal effects" means goods intended for the personal use of the persons concerned or for their household needs. The nature or quantity of such goods may not betray any commercial intent, nor may such goods be intended for an economic activity within the meaning of Article 4 of Directive 77/388/EEC. However, tools, equipment or instruments required by the person concerned for the pursuit of his trade or profession shall also be regarded as "personal effects";
- "tax-free" means exempt from value added tax on importation ;
- "alcoholic products" means products falling within heading Nos 22.03 to 22.09 of the Common Customs Tariff;
- "tobacco products" means the products referred to in Directive 79/32/EEC<sup>1</sup>;
- "normal residence" means the place where a person habitually lives, that is, the place where a person resides continuously for a certain period by reason of personal or occupational ties indicating close links between that person and the place where he lives.

2. For the purposes of this Directive, importation from the territories referred to in Article 3(2) of Directive 77/388/EEC shall be treated as importation from third countries.

<sup>1</sup>OJ No L 10, 16.1.1979, p. 8.

TITLE I

IMPORTATION OF PERSONAL EFFECTS BY  
INDIVIDUALS COMING FROM THIRD COUNTRIES

CHAPTER I: General provisions

Article 3

1. Personal effects imported tax-free pursuant to Articles 4 to 9 may not be transferred, hired out or loaned for the twelve months following their tax-free importation without prior notification thereof to the competent authorities. In such cases, the tax on importation shall be that to which the goods are liable on the basis of the value and rates applicable at the time of the notification.
2. The date on which last importation took place shall be taken as the starting date of the period in question.

CHAPTER II: Goods imported upon transfer of  
the normal residence

Article 4

1. Personal effects imported upon transfer of normal residence from a third country to a Member State of the Community shall be admitted tax-free.
2. No relief shall be granted in respect of:
  - (a) alcoholic products and tobacco products;
  - (b) commercial transport equipment;
  - (c) transportable dwellings;
  - (d) items to be used for gainful purposes, other than portable tools, equipment or instruments required for the pursuit of a trade or profession.

3. The relief shall be limited to personal effects which:
- (a) except in special cases justified by circumstances, have been owned and, in the case of non-comestible goods, used by the person concerned at his former normal residence for a minimum of six months before the date of his actual departure from the third country of provenance;
  - (b) are to be used for the same purposes at his new normal residence.
4. Motorcycles, private motor vehicles and their trailers, caravans, pleasure craft and private aeroplanes shall be admitted tax-free on condition that it can be established, to the satisfaction of the competent authorities, that the customs and/or tax charges to which they are normally liable have been paid either in the country of origin or in the country of provenance.
5. Except in special cases, relief shall be granted only in respect of personal effects definitively imported within six months after the date of actual departure of the person concerned from the third country of provenance.

The personal effects may be imported in several consignments within the period referred to in the preceding subparagraph.

#### Article 5

The relief referred to in Article 4 may be granted only to persons whose normal residence has been in a third country for at least twelve months.

Nevertheless, the competent authorities may grant derogations, provided that the person concerned furnishes evidence that he intended to stay in a third country for at least twelve months.

Article 6

1. By way of derogation from Article 4(1), relief may be granted in respect of personal effects definitively imported before the actual departure of the person concerned from the country of provenance, provided that he undertakes to effectively transfer his normal place of residence to the Member State of importation within a period of six months. This undertaking shall be accompanied by a security the form and amount of which shall be determined by the competent authorities.

2. Where relief is granted under paragraph 1, the periods laid down in Articles 3 and 4(5) shall be calculated from the date of completion of the customs formalities for exportation from the country of provenance.

CHAPTER III: Goods imported on the occasion  
of a marriage

Article 7

1. In addition to personal effects within the meaning of Article 2, trousseaux and new household effects belonging to a person transferring his or her normal residence from a third country to the territory of a Member State on the occasion of his or her marriage shall be admitted tax-free.

2. For the purposes of paragraph 1:

- (a) "trousseaux" means personal and household linen and made-up clothing intended for the personal or household use of the person concerned;
- (b) "household effects" means items of furniture, household appliances, radio and television sets, and all other non-consumable objects normally used for household purposes.



Article 8

1. The relief referred to in Article 7 may be granted only to persons:

- (a) whose normal residence has been in a third country for at least twelve months. However, derogations may be granted where it is established to the satisfaction of the competent authorities that it was the intention of the person concerned to stay in a third country for at least twelve months;
- (b) who furnish to the satisfaction of the competent authorities proof of their marriage.

2. Save in exceptional circumstances, the relief shall be granted only in respect of goods definitively imported:

- not later than four months after the date of marriage, or

- not earlier than two months before the planned date of marriage. In the latter case, the relief may be subject to the lodging of an appropriate security the form and amount of which shall be determined by the competent authorities.

CHAPTER IV: Personal effects acquired by way  
of inheritance

Article 9

1. Personal effects located in a third country that are acquired by way of inheritance by a natural person having his normal residence in a Member State shall be admitted tax-free.

2. No relief shall be granted in respect of the goods referred to in Article 4(2).

3. Relief shall be granted in respect of personal effects definitively imported before the expiry of a period of three years after the date of death.

However, this period may be extended by the competent authorities to take account of special circumstances.

4. The effects may be imported in several consignments within the period referred to in paragraph 3.

TITLE II

GOODS IMPORTED BY PUPILS OR STUDENTS

Article 10

1. Outfits imported by pupils or students having their normal residence in a third country and coming to stay in a Member State for the sole purpose of pursuing their studies there shall be admitted tax-free.
2. Outfits and study requisites imported by pupils or students having their normal residence in a Member State and coming to stay in another Member State for the sole purpose of pursuing their studies there shall be admitted tax-free.
3. For the purposes of this Article:
  - (a) "pupil" or "student" means any person duly enrolled in an establishment providing education (including technical education) for the purpose of attending the courses offered there on a full-time basis;
  - (b) "outfit" means personal and household linen and clothing, whether or not new, intended for the personal use of the pupil or student during the period of his studies;
  - (c) "study requisites" means goods normally used by pupils or students for study or research purposes, such as technical works, textbooks, instruments, calculators and typewriters.
4. The relief shall be granted at least once each year throughout the period in which the person retains the status of pupil or student.

TITLE III

IMPORTATION IN THE CONTEXT OF CERTAIN INTERNATIONAL RELATIONS

CHAPTER I: Honorary decorations or awards

Article 11

Provided that the persons concerned furnish evidence to the satisfaction of the competent authorities and that such importation is of a non-commercial character, the following shall be admitted tax-free:

- (a) decorations awarded by the government of a State other than the State of importation to persons whose normal residence is in the latter State;
- (b) trophies, medals and like objects of an essentially symbolic nature having been awarded free of charge in a State other than the State of importation to persons having their normal residence in the latter State as a tribute to their activity in fields such as the arts, science, sport or public service or in recognition of their merit at a particular event. Such objects must be imported by the persons to whom they have been awarded;
- (c) trophies, medals and like objects of an essentially symbolic nature which are imported by authorities or persons established in a State other than the State of importation in order to be awarded free of charge for the same purposes as those referred to in (b) in the territory of the latter State.

CHAPTER II: Gifts received in the context of  
good international relations

Article 12

The following shall be admitted tax-free:

- (a) goods imported by persons who have paid an official visit or attended an official function of international importance in a country other than that in which they have their normal residence and who have received them on that occasion as gifts from the host authorities or from other persons taking part in this visit or function;
- (b) goods imported by persons coming to pay an official visit or to attend an official function of international importance in the Member State of importation and who intend to offer them on that occasion as gifts to the host authorities;
- (c) goods addressed as gifts, in token of friendship or goodwill, by an official body, public authority or group carrying on an activity in the public interest that is situated in a State other than the Member State of importation to an official body, public authority or group carrying on an activity in the public interest that has been approved by the competent authorities as a body entitled to receive such tax-free goods and that is situated in the Member State of importation.

CHAPTER III: Goods to be used by monarchs or  
heads of State

Article 13

The following shall be admitted tax-free:

- (a) gifts to reigning monarchs or heads of State;
- (b) goods to be used or consumed in the Member State of importation by reigning monarchs or heads of State of third countries, or of another Member State, or by persons officially representing them during their official stay.

The provisions of the preceding subparagraph shall also apply to persons having prerogatives at international level analogous to those enjoyed by a reigning monarch or head of State.

CHAPTER IV: Goods for the construction, upkeep or decoration of commemorative monuments or military cemeteries

Article 14

Goods imported by organizations approved by the competent authorities and to be used for the construction, upkeep or decoration of cemeteries, graves and memorials commemorating members of the armed forces of a State other than the State of importation who lost their lives in time of war and are buried in the latter State shall be admitted tax-free.

TITLE IV

GOODS ADDRESSED TO CHARITABLE  
OR PHILANTHROPIC ORGANIZATIONS

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CHAPTER I: Goods imported for general purposes

Article 15

1. Goods donated free of charge and without any commercial intent on the part of the donor to charitable or philanthropic organizations approved by the competent authorities, for any of the following purposes:

- for distribution free of charge to needy persons, or
- for sale to third parties at occasional charity events for the benefit of such persons, or
- for use solely to meet the operating needs of such organizations or to serve the objectives they pursue

shall be admitted tax-free.

2. The relief shall be granted to organizations which offer all the guarantees deemed necessary and which keep accounts such that the competent authorities are able to check their operations.

3. Goods admitted tax-free may not be used for purposes other than those for which the relief has been granted without prior notification thereof to the competent authorities. In such cases the tax on importation shall be that to which the goods are liable on the basis of the value and rates in force at the time of the notification.

4. No relief shall be granted in respect of alcoholic or tobacco products.

CHAPTER II: Goods imported for the benefit of handicapped persons

Article 16

1. Goods specially designed for the education, employment or social advancement of physically or mentally handicapped persons shall be admitted tax-free, provided that they are:

(a) imported by institutions or organizations that are engaged principally in the education or social advancement of, or the provision of assistance to, handicapped persons and are approved by the competent authorities of the Member States as bodies entitled to receive such tax-free articles,

and

(b) donated to such an institution or organization free of charge and with no commercial intent on the part of the donor.

2. The relief shall apply to the specific spare parts, components or accessories fitting the articles in question, provided that such spare parts, components or accessories are imported at the same time as the said articles, or, if they are imported at a later date, that they are identifiable as designed to fit objects that were previously admitted tax-free or are eligible for the relief.

3. Goods admitted tax-free may not be used for purposes other than the education, employment or social advancement of handicapped persons.

CHAPTER III: Goods imported for the benefit of disaster victims

Article 17

1. Goods imported by charitable or philanthropic organizations approved by the competent authorities shall be admitted tax-free where they are intended:

- for distribution free of charge to victims of disasters occurring on the territory of one or more Member States, or



- to be made available free of charge to the victims of such disasters, while remaining the property of the organizations in question.

2. The relief shall be granted to organizations which offer all the guarantees deemed necessary and which keep accounts such that the competent authorities are able to check their operations.

3. Goods admitted tax-free may not, once they cease to be used by disaster victims, be loaned, hired out or transferred, whether for a consideration or free of charge without prior notification thereof to the competent authorities. In such cases the tax on importation shall be that to which the goods are liable on the basis of the value and the rates in force at the time of the notification.

TITLE V

IMPORTATION OF THERAPEUTIC SUBSTANCES,  
MEDICINES AND LABORATORY ANIMALS

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CHAPTER I: Human therapeutic substances and blood-grouping and  
tissue-typing reagents

Article 18

1. Without prejudice to Articles 13A(1)(d) and 14(1)(a) of Directive 77/388/EEC, the following shall be admitted tax-free:

- (a) human therapeutic substances;
- (b) blood-grouping reagents;
- (c) tissue-typing reagents.

2. For the purposes of paragraph 1:

- "human therapeutic substances" means human blood and its derivatives (whole human blood, dried human plasma, human albumin and fixed solutions of human plasmic protein, human immunoglobulin and human fibrinogen);
- "blood-grouping reagents" means all reagents, whether of human, animal, plant or other origin, used for blood-type grouping and for the detection of blood incompatibilities;
- "tissue-typing reagents" means all reagents, whether of human, animal, plant or other origin, used for the determination of human tissue-types.

3. The relief shall be limited to products which:

- (a) are intended for institutions or laboratories approved by the competent authorities and are to be used exclusively for medical or scientific purposes;

- (b) are accompanied by a certificate of conformity issued by a duly authorized body in the country of consignment;
- (c) are contained in vessels bearing a special identification label.

4. The relief shall also cover the special packaging essential to the transport of human therapeutic substances or blood-grouping or tissue-typing reagents and any necessary solvents and accessories which may be included in the consignments.

CHAPTER II: Medicines and pharmaceutical products used at  
sporting events

Article 19

Medicines and pharmaceutical products for human or veterinary medical use intended for administration to persons or animals coming to take part in international sporting events shall, to the extent of their requirements during their stay in the Member State of importation, be admitted tax-free.

CHAPTER III: Laboratory animals

Article 20

Animals specially prepared for laboratory use that are dispatched free of charge to organizations approved by the competent authorities with a view to being used for purposes of pure scientific research shall be admitted tax-free.

TITLE VI

IMPORTATION OF CERTAIN AGRICULTURAL PRODUCTS  
AND PRODUCTS INTENDED FOR AGRICULTURAL USE

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CHAPTER I: Products obtained by Community farmers on properties  
located in a State other than the State of importation

Article 21

1. Agricultural products coming from properties located in a State adjoining the territory of the Member State of importation and operated by persons having their principal place of business in that Member State and in immediate proximity to the aforementioned properties shall be admitted tax-free.
2. The relief shall be granted for stockfarming products obtained from animals reared, acquired or imported in accordance with the general tax arrangements applicable in the Member State of importation.
3. The relief shall be limited to products which have been subjected only to such treatment as normally follows harvesting or production.
4. The relief shall be granted only in respect of products imported by the farmer. However, derogations may be granted by the competent authorities in cases where the carrier acts exclusively for the account of the farmer.
5. This Article shall apply mutatis mutandis to products of fisheries, fish farming or shooting, trapping or hunting carried out on lakes and water-courses bordering on the territory of the Member State of importation by fishermen or hunters established in that Member State.

CHAPTER II: Seeds, fertilizers and products necessary for the  
treatment of soil and crops

Article 22

1. Seeds, fertilizers and products necessary for the treatment of soil and crops and intended for use on property located in a Member State adjoining a third country or another Member State shall be admitted tax-free. The relief shall be granted in respect of products imported by persons having their principal place of business in an area adjoining the territory of the Member State of importation.

2. The relief shall be limited to the quantities of seeds, fertilizers or other products required for the purpose of operating the property.

CHAPTER III: Fodder and feedingstuffs intended for animals during  
transport

Article 23

Fodder and feedingstuffs of any description loaded on to means of transport used to convey animals in to the territory of a Member State for the purpose of feeding those animals during the journey shall be admitted tax-free.

TITLE VII

FUEL AND LUBRICANTS CONTAINED IN THE  
STANDARD TANKS AND SUMPS OF VEHICLES

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Article 24

1. Fuel and lubricants contained in the standard tanks and sumps of private and commercial vehicles entering a Member State shall be admitted tax-free.
2. For the purposes of paragraph 1:
  - (a) "commercial vehicle" means any road vehicle which, by its type of construction and equipment:
    - is intended solely for the carriage of goods, or
    - is intended for industrial or agricultural use, or
    - has a seating capacity of more than nine, including the driver;
  - (b) "private vehicle" means any road vehicle other than those coming within the terms of (a);
  - (c) "standard tanks and sumps" means tanks or sumps permanently fixed by the manufacturer to all vehicles of the same type as the vehicles in question and whose permanent fitting enables fuel to be used directly, both for the purpose of propulsion and, where appropriate, for the operation of a refrigeration system, or enables lubricants to be used directly.
3. Member States may limit application of the relief in respect of fuel contained in the standard tanks of commercial motor vehicles to 100 litres per vehicle per journey.

TITLE VIII

IMPORTATION OF GOODS FOR THE PROMOTION OF  
TRADE OR TOURISM

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CHAPTER I: Samples of negligible value

Article 25

1. Samples which are of negligible value and which can be used only to solicit orders for goods of the type they represent shall be admitted tax-free.

2. For the purposes of paragraph 1, "samples" means articles representing a category of goods whose manner of presentation and quantity, for goods of the same type or quality, rule out their being used for any purpose other than that of seeking orders.

The competent authorities may require that, to qualify for relief, certain articles be rendered permanently unusable by being torn, perforated, or clearly and indelibly marked, or by any other process, provided that, despite such treatment, they may still serve as samples.

CHAPTER II: Goods used or consumed at a trade fair or similar event

Article 26

1. The following shall be admitted tax-free:

(a) small representative samples of goods intended for a trade fair or similar event;

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- (b) goods imported solely in order to be demonstrated or in order to demonstrate machines and apparatus displayed at a trade fair or similar event;
  - (c) various materials of little value, such as paints, varnishes and wallpaper, which are to be used in the building, fitting-out and decoration of temporary stands at a trade fair or similar event and which are destroyed by virtue of being used;
  - (d) printed matter, catalogues, prospectuses, price lists, advertising posters, calendars, whether or not illustrated, unframed photographs and other articles supplied free of charge in order to advertise goods displayed at a trade fair or similar event.

2. No relief shall be granted in respect of alcoholic products or tobacco products.

3. For the purposes of paragraph 1, "trade fair or similar event" means:

- (a) exhibitions, fairs, salons and similar events connected with trade, industry, agriculture or handicrafts;
- (b) exhibitions and events held mainly for charitable purposes;
- (c) exhibitions and events held mainly for scientific, technical, handicraft, artistic, educational, sporting, religious or cultural purposes, or in order to promote international understanding;
- (d) meetings of representatives of international organizations or groups;
- (e) official or commemorative ceremonies and gatherings;



with the exception of exhibitions staged privately in commercial stores or premises with a view to the sale of goods.

Article 27

The relief provided for in Article 26 (1) (a) shall be limited to samples which:

- (a) are imported free of charge as such or are obtained at the event in question from goods imported in bulk;
- (b) are used exclusively for distribution free of charge to the public at the event in question with a view to being used or consumed by the persons to whom they have been distributed;
- (c) are identifiable as advertising samples of low unit value;
- (d) are not suitable for marketing and, where applicable, are put up in packages containing quantities smaller than the smallest quantity of the same product effectively sold on the market;
- (e) in the case of foodstuffs and beverages not packaged as indicated at (d), are consumed on the spot at the event in question;
- (f) as regards their total value and quantity, are appropriate to the nature of the event, the number of visitors and the scale of the exhibitor's participation.

Article 28

The relief provided for in Article 26 (1) (b) shall be limited to goods which are:

- (a) consumed or destroyed at the event in question

and

- (b) are appropriate, as regards their total value and quantity, to the nature of the event, the number of visitors and the scale of the exhibitor's participation.

Article 29

The relief provided for in Article 26 (1) (d) shall be limited to printed matter and advertising material which:

- (a) is intended for distribution free of charge to the public at the place where the event is held;
- (b) as regards its total value and quantity, is appropriate to the nature of the event, the number of visitors and the scale of the exhibitor's participation.

CHAPTER III: Printed matter and advertising material

Article 30

1. Printed advertising matter such as catalogues, price lists, directions for use or brochures shall be admitted tax-free, provided that they relate to:
  - (a) goods put up for sale or hired out, or
  - (b) transport or commercial insurance services supplied, by an undertaking established outside the Member State of importation.

2. The printed matter must clearly display the name of the undertaking which produces, sells or hires out the goods or supplies the services to which it relates;

No consignment may include more than one document or a single copy of each document if it is made up of several documents. Consignments comprising several copies of the same document may nevertheless be granted relief provided their total gross weight does not exceed 1 kg;

Printed matter may not be the subject of grouped consignments from the same consignor to the same consignee.

3. Advertising material of no commercial value which is provided free of charge by suppliers to their customers and which, apart from its advertising function, is not capable of being used otherwise shall also be admitted tax-free.

CHAPTER IV: Tourist documentationArticle 31

1. Without prejudice to Article 9 of Directive 77/388/EEC, the following shall be admitted tax-free:

- (a) documentation which is intended for distribution free of charge and the principal purpose of which is to encourage the public to visit foreign countries, in particular in order to attend cultural, tourist, sporting, religious or trade or professional meetings and events, provided that such documentation contains not more than 25% commercial advertising and that the general nature of its promotional aim is evident;
- (b) foreign hotel lists and yearbooks published by official tourist agencies, or under their auspices, and timetables for foreign transport services, provided that such documentation is intended for distribution free of charge and contains not more than 25% commercial advertising;
- (c) reference material supplied to accredited representatives or correspondents appointed by official national tourist agencies and not intended for distribution.

2.- "Documentation" means leaflets, brochures, books, magazines, guidebooks, posters, whether or not framed, unframed photographs and photographic enlargements, maps, whether or not illustrated, window transparencies, and calendars.

- "Reference material" means yearbooks, lists of telephone or telex numbers, hotel lists, fair catalogues, specimens of craft goods of negligible value, and documentation on museums, universities, spas and other similar establishments.

TITLE IX

GOODS IMPORTED FOR TEST,  
INFORMATION OR RESEARCH PURPOSES

CHAPTER I: General provisions

Article 32

1. The reliefs referred to in Articles 33 and 34 shall be granted on condition that:
  - (a) the goods imported tax-free are completely used up or destroyed in the course of the operation for which they are imported or are rendered commercially valueless under the supervision of the competent authorities;
  - (b) the quantities of goods imported do not exceed the quantities strictly necessary for the purpose for which they are imported;
  - (c) the goods imported cannot be used for a purpose which is itself a sales promotion exercise;
  - (d) the period during which the purpose for which the goods are imported is to be achieved and the administrative formalities to be carried out to ensure that the goods are used for the purpose intended are fixed by the competent authorities.
  
2.
  - (a) The reliefs referred to in Article 33 and 34 shall also cover imported goods which are not completely used up or destroyed in the course of the operation for which they are imported, provided that the products remaining are, with the agreement and under the supervision of the competent authorities:
    - either completely destroyed or rendered commercially valueless on completion of testing, or

- surrendered to the national Treasury at no cost to the latter, where this is possible under national law, or
- in exceptional, duly justified, circumstances, exported.

- (b) However, the importer may ask the competent authorities for permission to import the remaining products permanently. In such case the tax on importation shall be that to which these products are liable on the basis of the value and rates applicable on the date of the application for permanent importation.

## CHAPTER II: Goods imported for test purposes

### Article 33

The following shall be admitted tax-free:

- (a) goods on which tests are to be performed to determine their composition, quality or other technical characteristics;
- (b) goods to be used in tests:
  - to determine whether equipment available in the Member State of importation is capable of carrying out the working or processing of the goods in the manner required by a person acquiring such equipment, or
  - to ascertain whether a product available in the Member State of importation meets the requirements of a person acquiring such product.

CHAPTER III: Goods imported for the purposes of industrial  
or commercial information or research

Article 34

Goods shall be admitted tax-free, provided that they are to be:

- examined or analysed with a view to manufacturing, or improving the manufacture of, similar goods, or
- used in market research or consumer testing by a manufacturer wishing to explore the possibility of manufacturing similar goods or goods that can be used for the same purpose, or
- used to investigate whether certain new ideas or materials used in their manufacture can be applied or adapted for the manufacture of similar goods.

TITLE X

## GOODS IMPORTED UPON

TRANSFER OF ACTIVITIESCHAPTER I: CAPITAL GOODSArticle 35

1. Capital goods and equipment belonging to undertakings which definitively cease their activity in the country of provenance in order to carry on a similar activity in the Member State into which the goods are imported and which, in accordance with Article 22 (1) of Directive 77/388/EEC, notify the competent authorities of the Member State of importation of the commencement of such activity shall be admitted tax-free.
2. For the purposes of paragraph 1:
  - "activity" means an economic activity as referred to in Article 4 of Directive 77/388/EEC;
  - "equipment" means both the office or warehouse equipment and the technical equipment required for the operation of the undertaking transferred, where the undertaking transferred is an agricultural one, its livestock shall also be regarded as "equipment";
  - "undertaking" means a complete economic unit or a department of such an economic unit operating independently.

Article 36

1. The relief referred to in Article 35 shall be limited to capital goods and equipment which :
  - (a) except in special cases justified by circumstances, have actually been used in the undertaking for a minimum of twelve months prior to the date on which the undertaking ceased its activity in the country from which it is transferred;

- (b) are intended to be put to the same uses once the transfer has been completed;
- (c) are to be used for the purposes of an activity not exempted under Article 13 of Directive 77/388/EEC;
- (d) are appropriate to the nature and size of the undertaking in question.

However, the Member States may exempt capital goods and equipment imported by charitable or philanthropic organizations from another Member State.

2. Pending entry into force of the common rules referred to in the first subparagraph of Article 17 (6) of Directive 77/388/EEC, the Member States may exclude from the relief, in whole or in part, capital goods in respect of which they have availed themselves of the second subparagraph of that paragraph.

#### Article 37

1. Except in special cases justified by circumstances, the relief referred to in Article 35 shall be granted only in respect of goods imported before expiry of a period of twelve months running from the date on which the undertaking ceased its activity in the country of provenance.
2. Without prejudice to the provisions of Directive 77/388/EEC, and in particular Article 5 (7) (b) and Articles 18 and 20 thereof, and pending expiry of a period of twelve months starting on the date of importation, goods imported tax-free may not be loaned, hired out or transferred, whether for consideration or free of charge, without prior notification to the competent authorities.



CHAPTER II: Importation of stocks

Article 38

1. Where an undertaking transfers its activity from one Member State to another, the stocks of raw materials, semi-manufactures or finished products normally used for the purposes of its activity and transported together with capital goods and equipment admitted tax-free pursuant to Article 35 shall also be admitted tax-free.
  
2. The stocks must be appropriate to the nature and size of the undertaking in question.

TITLE XI

IMPORTS OF MINIMAL IMPORTANCE

CHAPTER I: Consignments of negligible value

Article 39

1. Goods contained in small consignments of a total value not exceeding 10 ECU shall be admitted tax-free.
2. The relief shall not apply to alcoholic products, tobacco products, perfumes or toilet waters.

CHAPTER II: Imports subject to a negligible amount of tax

Article 40

The Member States may relieve from payment of tax imports in respect of which the amounts due by virtue of importation do not exceed 3 ECU.

CHAPTER III: Definition of the ECU

Article 41

1. For the purposes of this Directive, the ECU is defined in the Financial Regulation of 21 December 1977<sup>1</sup>.
2. The value in national currency of the ECU to be taken into consideration for the purposes of this Directive shall be fixed once each year. The rates to be applied shall be those obtaining on the first working day in October and shall take effect on 1 January the following year.

<sup>1</sup> OJ No L 356, 31.12.1977.

3. The Member States may round off the amounts in national currency arrived at by converting the amounts in ECU provided for in Articles 39 and 40.

4. The Member States may continue to apply the amounts of the reliefs in force at the time of the annual adjustment provided for in paragraph 2, if conversion of the amounts of the reliefs expressed in ECU results, before the rounding-off provided for in paragraph 3, in a change of less than 5% in the reliefs expressed in national currency.

TITLE XIIMISCELLANEOUS RELIEFSCHAPTER I: Ancillary materials for the stowage and protection of goods during transportArticle 42

The miscellaneous materials such as rope, straw, cloth, paper and paper-board, wood and plastics that are used for the stowage and protection - including heat protection - of goods during transport in the territory of a Member State shall be admitted tax-free, provided that;

- (a) they are not normally re-usable, and
- (b) the consideration paid for them is regarded as an incidental expense forming part of the taxable amount as defined in Article 11 of Directive 77/388/EEC.

CHAPTER II: Coffins, funerary urns and ornamental funerary articlesArticle 43

Coffins containing bodies, urns containing the ashes of deceased persons, and the flowers, funeral wreaths and other ornamental objects normally accompanying them shall be admitted tax-free.

CHAPTER III: Goods used for the purpose of exchanging informationArticle 44

Punched cards, sound recordings, recorded magnetic tapes or discs, microfilms, and publications, whether or not in the form of microfilms or in other forms, to be used for international exchanges of information free of charge shall be admitted tax-free.

CHAPTER IV: Goods intended for courts of law

Article 45

Goods to be used as evidence or for like purposes before the courts or other official agencies of the Member State of importation shall be admitted tax-free.

CHAPTER V: Press photographs

Article 46

The following shall be admitted tax-free:

- press photographs sent to press agencies or to newspaper or magazine publishers;
- stereotype mats for press photographs, whether captioned or not, sent to press agencies or to newspaper or magazine publishers.

TITLE XIII

FINAL PROVISIONS

Article 47

This Directive shall apply without prejudice to the following Directives:

- (a) Directive 69/169/EEC on the harmonization of provisions laid down by law, regulation or administrative action relating to exemption from turnover tax and excise duty on imports in international travel ;
- (b) Directives 74/651/EEC<sup>2</sup> and 78/1035/EEC<sup>3</sup> on the tax reliefs to be allowed on the importation of goods in small consignments of a non-commercial character ;
- (c) Directive / /EEC on the Community value added tax and excise duty procedure applicable to the stores of ships, aircraft and international trains<sup>4</sup> ;
- (d) Directive / /EEC on tax exemptions applicable to permanent imports<sup>5</sup> from a Member State of the personal property of individuals .

Article 48

No provision of this Directive shall prevent the Member States from maintaining in force:

- (a) the privileges and immunities granted by them under cultural, scientific or technical cooperation agreements concluded between them or with third countries;

<sup>1</sup>OJ No L 133, 4.6.1969, p. 6

<sup>2</sup>OJ No L 354, 30.12.1974, p. 57

<sup>3</sup>OJ No L 366, 28.12.1978, p. 34

<sup>4</sup>OJ No L .....

<sup>5</sup>OJ No L .....

- (b) the special reliefs justified by the nature of frontier traffic which are granted by them under frontier agreements concluded between them or with third countries.

Article 49

- 1. The Member States shall bring into force the measures necessary to comply with this Directive with effect from 1 January 1981.
- 2. The Member States shall inform the Commission of such measures as they adopt to give effect to this Directive.

Article 50

This Directive is addressed to the Member States.

Done at ,

For the Council

The President