
**COMPLETING THE
INTERNAL MARKET**



CURRENT STATUS 31 DECEMBER 1990

**THE ELIMINATION OF
FRONTIER CONTROLS**

**Control of goods
Control of individuals
Value-added tax
Excise duties**

**COMMISSION OF THE
EUROPEAN COMMUNITIES**

In June 1985, the Commission of the European Communities issued a White Paper on 'Completing the internal market', setting out a target for establishing a single European market in goods, services, people and capital by 1992.

The White Paper included a detailed legislative timetable containing over 300 measures and proposals.

In March 1990, the Commission issued its 'Fifth report on the implementation of the White Paper on completing the internal market'. This updated and modified the original legislative timetable contained in the White Paper.

This booklet is one of a series of five summarizing the current problems, the 1992 objectives and the measures and proposals necessary for the implementation of the single market.

The complete series of booklets covers

A common market for services

The elimination of frontier controls

**Conditions for business cooperation
Public procurement**

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Veterinary and plant health controls

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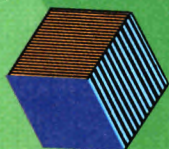


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THE ELIMINATION OF FRONTIER CONTROLS

How to use this booklet

This series of booklets sets out:

- (i) to inform the interested European public about the steps which are being taken to bring about the single market;
- (ii) to summarize the approach which is being taken in individual business sectors;
- (iii) to provide an initial guide to the content and current status of each proposal which the Commission has drafted with a view to completing the internal market in 1992.

This booklet contains:

- (i) a brief description of how the Community makes laws;
- (ii) a general introduction to the issues and problems involved in eliminating frontier controls;
- (iii) specific introductions to the approach being taken;
- (iv) a brief summary of each measure which has been adopted or proposed with a view to establishing an internal market without frontier controls. Where a measure has been proposed but not yet adopted, the summary also gives details of the European Parliament's opinion and of the current status of the proposal. Where the measure has been adopted, the summary gives the deadline for implementing the legislation in the Member States, together with details of any follow-up work and of the implementing measures taken by the Commission.

The reader should:

- (i) ensure he is familiar with how the Community makes laws and recommendations; if this is not the case, he should turn to page iii;
- (ii) read the general introduction to services for an overview of the issues (page 1);
- (iii) select from the contents (page vii) the section(s) which cover the sector(s) of interest.

The summaries provide references to the appropriate copies of the *Official Journal of the European Communities* for those readers wishing to examine measures in more detail. Copies of the Official Journal can be obtained from the sales offices listed inside the back cover.

Note to the reader

This publication provides a snapshot, as as 31 December 1990, of a situation which is evolving all the time.

The reader should understand that the text is provisional, also from a linguistic and terminological point of view. It will be revised and consolidated as and when measures are adopted in their definitive form.

HOW THE EUROPEAN COMMUNITY MAKES LAWS AN OUTLINE

It is necessary to be familiar with the procedures by which the Community passes laws in order to understand the detail contained in the summaries. Each summary relates to a specific measure intended to facilitate the creation of the single market. In broad terms:

- (i) the Commission (which has both executive and administrative roles) initiates and drafts a proposal which it submits to the Council;
- (ii) the European Parliament (which is elected by the citizens of the Community) and the Economic and Social Committee (which consists of representatives from employer organizations, trade unions and other interest groups) consider and comment on the proposal;
- (iii) the Council (whose members represent the governments of the Member States, normally at ministerial level) adopts the proposal which then becomes law. In some cases, this power can be exercised by the Commission.

This booklet contains summaries of different types of measures; their consideration and adoption can follow different procedures. These are discussed below.

1. LAWS AND OTHER MEASURES

Regulations

A regulation is a law which is binding and directly applicable in all Member States without any implementing national legislation. Both the Council and the Commission can adopt regulations.

Directives

A directive is an EEC law binding on the Member States as to the result to be achieved, but the choice of method is their own. In practice, national implementing legislation in the form deemed appropriate in each Member State is necessary in most cases. This is an important point as businesses affected by a directive have to take account of the national implementing legislation as well as the directive.

Decisions

A decision is binding entirely on those to whom it is addressed. No national implementing legislation is required. The decisions summarized in this booklet are Council Decisions although in certain cases the Commission has the power to adopt Commission Decisions.

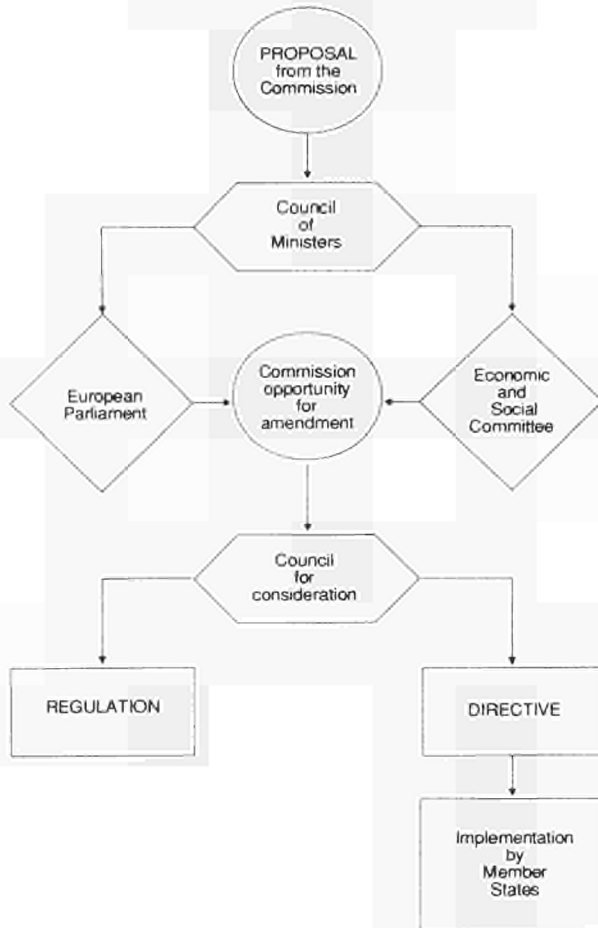
Recommendations

A recommendation has no binding effect (it is not a law). Recommendations can be adopted by both the Council and the Commission.

The majority of the measures included in this booklet are Council Directives.

EEC legislation from start to finish (directives and regulations)

The consultation procedure



The cooperation procedure

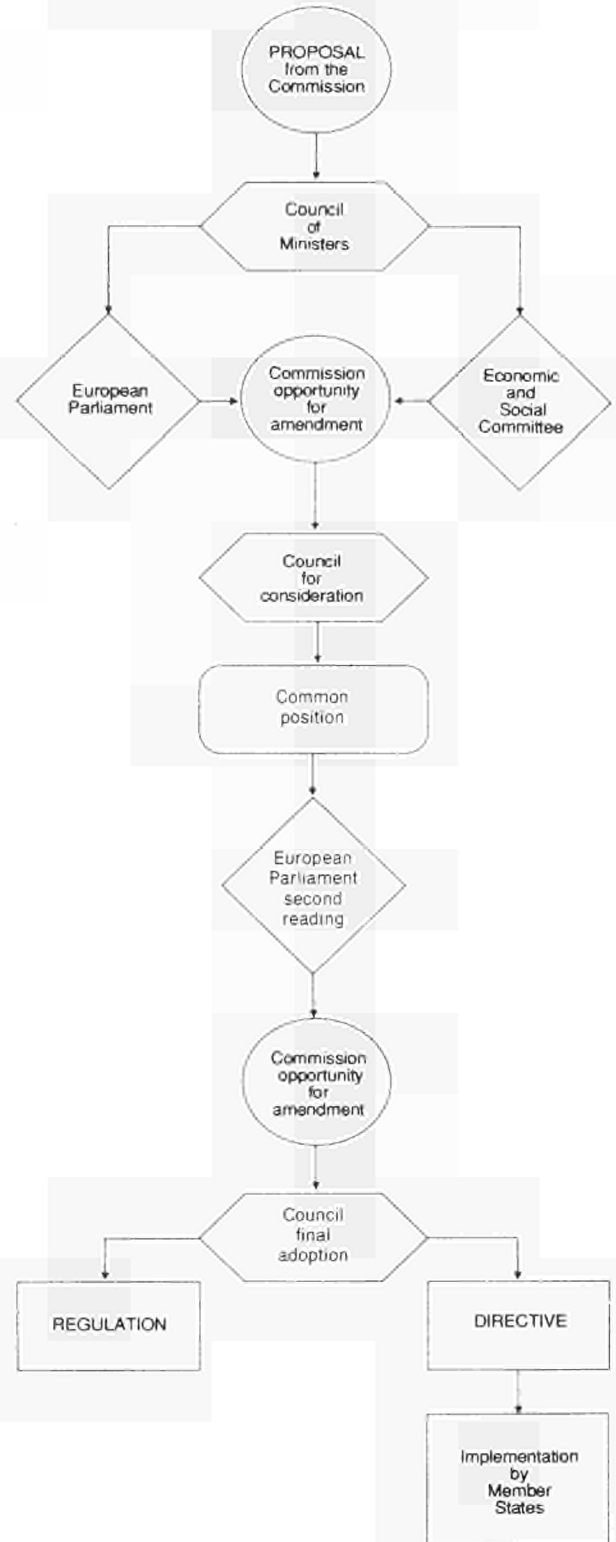


Figure 1

2. PROCEDURES FOR MAKING LAWS

The Community's decision-making procedures are best illustrated by tracing the progress of a directive. The following text should be read in conjunction with the flow chart in Figure 1.

Since the entry into force of the Single European Act on 1 July 1987 there are two distinct procedures for the adoption of a directive: the consultation procedure and the cooperation procedure. The EEC Treaty article upon which a proposal is based dictates which procedure is followed.

In both cases a directive begins with a proposal from the Commission to the Council.

Under the consultation procedure, the Council requests an opinion from the European Parliament and, in most cases, from the Economic and Social Committee. Once these have been given, the Commission then has the opportunity to amend the proposal if it so wishes. The proposal is then examined by the Council which may adopt it as proposed, adopt it in an amended form, or fail to reach agreement in which case the proposal remains 'on the table'.

Under the cooperation procedure, the Council requests opinions from the Parliament and the Economic and Social Committee in the same way. Once these opinions have been received the Council has to adopt what is called a common position, although it seems that the proposal will again remain on the table failing any common position being reached. On a common position being reached, this is transmitted to the Parliament which has three months to accept, reject, or propose amendments to it, on its second reading.

At this stage the Commission may again amend the proposal if it wishes. The proposal is then returned to the Council which has three months to take a final decision. In the absence of a decision, the proposal lapses.

Whether the Council can adopt a proposal by a qualified majority or has to reach a unanimous decision depends in the first instance upon the article of the Treaty which is the basis for the measure. However, there are certain situations where unanimity must be reached by the Council:

- (i) to introduce amendments of its own initiative to a proposal;
- (ii) to adopt amendments proposed by the Parliament but not taken up by the Commission;
- (iii) to adopt a measure when the Parliament has rejected the Council common position under the cooperation procedure.

The question of whether a directive or a regulation is subject to the cooperation procedure, the consultation procedure or neither of these depends on its legal basis.

There are a limited number of decisions summarized in this booklet. The European Parliament and the Economic and Social Committee are consulted on some of these.

There are also a limited number of recommendations in this booklet. Some Council recommendations are submitted to the European Parliament and the Economic and Social Committee for their opinion before adoption.

3. PUBLICATION OF TEXTS

At certain stages in the Community decision-making procedure, texts are published in the *Official Journal of the European Communities*. There is an 'L' series which contains legislation and a 'C' series which contains other information, such as communications issued by the Commission.

This booklet contains summaries of both adopted legislation and proposals for legislation. In the case of adopted legislation, the summary gives the reference to the Official Journal 'L' series in which the text has been published. Readers interested in the legislative history of a measure will find in the text the Official Journal 'C' series references for the corresponding Commission proposal(s) and the opinions of the European Parliament and the Economic and Social Committee.

In the case of proposals for legislation, the summary gives the Official Journal 'C' series references for the Commission proposal(s) and the opinions of the European Parliament and the Economic and Social Committee, if published by 31 December 1990.

THE ELIMINATION OF FRONTIER CONTROLS

INTRODUCTION

WHY THE ELIMINATION OF FRONTIER CONTROLS?	1
1. CONTROL OF GOODS	
Current problems and 1992 objectives	5
1.1. Single administrative document: extension	7
1.2. Single administrative document: reduction of scope (from 1 January 1993)	9
1.3. Community transit procedure: guarantees	10
1.4. Community transit	11
1.5. Abolition of exit customs formalities: TIR	13
1.6. Abolition of exit customs formalities: common border posts	14
1.7. Duty-free admission of commercial vehicle fuel	16
1.8. Postal fees for customs presentations	17
1.9. Statistics relating to the trading of goods between Member States	18
1.10. Abolition of frontier controls relating to means of transport	20
1.11. Abolition of the transit advice note	21
1.12. Protection against the dangers of ionizing radiation: transfer of radioactive waste	23
1.13. Elimination of controls and formalities applicable to baggage	24
1.14. Inspections and formalities on the carriage of goods between Member States	25
2. CONTROL OF INDIVIDUALS	
Current problems and 1992 objectives	26
2.1. Arms legislation	28
2.2. Tax-free allowances: international travel	31
2.3. Tax-paid allowances: increase in allowances in intra-Community travel	33
2.4. Tax relief: small consignments of non-commercial goods	34
2.5. Tax exemption: small consignments and other final imports of goods	35
2.6. Tax exemption: permanent import of personal property	36
2.7. Tax exemption: temporary import of means of transport	38
2.8. Easing of controls at intra-Community borders	40
2.9. Processing of personal data	41
3. VALUE-ADDED TAX	
Current problems and 1992 objectives	44
3.1. Uniform basis of assessment: abolition of derogations (18th VAT Directive)	46
3.2. Approximation of rates	47
3.3. Convergence of rates	48
3.4. Non-deductible expenditure (proposal for a 12th VAT Directive)	49
3.5. Common value-added tax scheme applicable to small and medium-sized businesses (proposal for a 22nd VAT Directive)	50
3.6. Common value-added tax scheme: proposal for a 19th Directive	51
3.7. Refunds to non-EEC taxable persons (13th VAT Directive)	52
3.8. Temporary importation of goods (17th VAT Directive)	53
3.9. Stores of vessels, aircraft and international trains	55
3.10. Special arrangements applicable to second-hand goods, works of art, antiques and collectors' items (proposal for a seventh VAT Directive)	56
3.11. Transitional taxation arrangements	58
3.12. Administrative cooperation in the field of indirect taxation	61

4. EXCISE DUTIES

Current problems and 1992 objectives	63
4.1. Harmonization of duty structures: general arrangements for products subject to excise duty and the holding and movement of such products	65
4.2. Harmonization of duty structures: alcoholic beverages and alcohol contained in other products	67
4.3. Harmonization of duty structures: manufactured tobacco	69
4.4. Harmonization of duty structures: mineral oils	70
4.5. Harmonization of duty structures: rum from French overseas departments	71
4.6. Harmonization of excise duty rates: alcohol and alcoholic beverages	72
4.7. Harmonization of excise duty rates: cigarettes and manufactured tobacco	73
4.8. Harmonization of excise duty rates: mineral oils	75
4.9. Committee on excise duties	76

INTRODUCTION

WHY THE ELIMINATION OF FRONTIER CONTROLS?

1957 — Treaty of Rome

This was intended to create a single market throughout the European Community, based on the principle of the free movement of goods, persons, services and capital.

Although a customs union was very quickly established and significant progress made with regard to the free movement of goods and persons, a number of administrative barriers to the establishment of a genuine single market continued to exist, although some measures were taken to simplify border formalities.

1985 — White Paper

Customs posts at the frontiers between Member States continued to exist because they were a convenient point to exercise the tax, commercial, economic, health, statistical and police controls and formalities still required. However, the cost to industry alone of complying with frontier-crossing formalities is variously estimated at between 5 and 7% of the volume of intra-Community trade or ECU 12 000 million.

The Commission's White Paper 'Completing the internal market' set the ambitious target of creating the requisite conditions for the abolition of all existing controls and formalities.

1987 — Single European Act

This Act, which amended the EEC Treaty and therefore had to be ratified by the governments and parliaments of all the Community countries, confirmed the objective of completing a single European market by 1992 according to the timetable set out in the 1985 White Paper. It adapted the Community's decision-making procedures and increased the scope for majority (as opposed to unanimous) voting in the Council of Ministers. It should facilitate the adoption of the measures put forward in the White Paper within the proposed time frame. But the major decisions relating to border controls still require unanimity in the Council (tax controls and controls on individuals).

1990 — Current situation

Five years after the publication of the White Paper, three years after the entry into force of the Single Act and with two years to go before 31 December 1992, the biggest delays are in the abolition of physical checks and tax controls (less than half of the proposed measures have been taken).

On the tax front, the adoption of the most important measures has been slow: agreement will have to be reached in 1991 on the harmonization of VAT rates and on the date for the transition to the definitive system under which VAT will be collected in the producer country. However, the Council has already reached an agreement on transitional VAT arrangements and on a system for excise duties, both of which will enter into force at the beginning of 1993. The structure of these schemes has been laid down in the conclusions of the Council; they must now be put into practice through working regulations.

1992 — Single market

1992 is the deadline set by the 1987 Single European Act for complete elimination of internal frontier barriers and controls.

Physical barriers

The physical barriers at the frontiers between Member States hold up both goods and individuals.

In the case of goods, checks and controls are carried out for a number of purposes, including the gathering of trade statistics, the implementation of quantitative restrictions on imports and the administration of transport policy. Because of these checks and controls commercial vehicle drivers have to carry extensive documentation and wait their turn in queues at customs posts. Many of the controls and checks can be transferred to other locations in Member States; this reduces but does not eliminate the rest of border-related controls. Nevertheless, there has undoubtedly been progress in this field. The Council has abolished the obligation on carriers to lodge a transit advice note when transporting goods across internal frontiers under the transit procedure. This measure, which will make cross-border transport much easier, is to be completed by a reorganization of Community transit arrangements with effect from 1 January 1993 involving the abolition of the transit procedure for intra-Community trade.

The Commission has also proposed the abolition of the single administrative document which forms the basis of all customs procedures. This proposal is based on the assumption that all products on the Community market have 'Community status' and that there is therefore no need for the checks on the place of origin in intra-Community trade; proof that a product originates in the Community is now supplied solely by the invoice and not by any administrative documents, which have therefore been abolished.

In the case of individuals, passport controls, the occasional searches of baggage and vehicles and customs checks on purchases are a constant reminder that the Community is divided into 12 distinct sovereign States. In a true Community characterized by the ever-closer union to which the Member States committed themselves when signing the Treaty of Rome, such frontier formalities have no place. Community citizens should not have to produce documents proving their identity or nationality or have to have goods in their baggage cleared by customs when passing from one Member State to another. Of course, certain national protective measures, such as those aimed at combating terrorism, drug trafficking and other forms of crime, will continue to be necessary in a single market. On 19 June 1990, Belgium, France, Germany, the Netherlands and Luxembourg signed an agreement giving effect to the Schengen Agreement, which the five countries had signed on 14 June 1985. Italy signed an Act of Accession on 27 November 1990. Under the Agreement, controls at common borders between the Member States concerned will be abolished in 1992 and a whole system of police and judicial cooperation will be set up with the aim of preventing any rise in crime or illegal immigration.

The abolition of border controls on individuals raises the question of the extent to which Member States' policies and laws have to be harmonized and of what action should be taken by means of Community measures through intergovernmental cooperation. It also raises the question of the reinforcement of the controls at external borders in order to prevent, for example, drug trafficking, illegal immigration, terrorism and organized crime. The Commission believes that Community legislation should be the preferred method only where the uniformity and legal security it brings constitutes the best means of attaining the objective of an area without frontiers. Otherwise intergovernmental cooperation, already in operation in a number of areas, can be the most efficient and cost-effective method.

There can be no doubt that progress has been made in the organization of work on abolishing controls on individuals. Fresh stimulus has been provided by the ongoing monitoring by a group of coordinators of all the various aspects of the work in progress. This led to an agreement on procedures for handling asylum applications which was signed by all the Member States except Denmark in June 1990.

Tax controls

Tax controls are among the most important functions performed at or in connection with frontiers. Linked to the crossing of frontiers, they are based on different treatment for national transactions and for intra-Community transactions. They constitute a major barrier to the movement of individuals and goods within the Community. Moreover, this compartmentalization has perpetuated very wide differences in indirect tax rates. In August 1987, the Commission presented a series of proposals for abolishing tax frontiers after 1992 by changing the VAT system, with both national and intra-Community transactions being accorded identical treatment for VAT purposes, on the basis of the system which applies in Member States at present. This modification entails abolition of the present system of taxing imports and restricts tax on exports and requires rates to be brought sufficiently into line to prevent the risk of distortion of competition, particularly in the case of purchases by exempt taxable persons, institutional non-taxable persons or individuals.

At the end of 1989, the Council adopted a number of guidelines concerning the VAT system after 1992. First, although it was prepared to accept the Commission's approach in the medium term, it could not agree to the implementation of such a system within what it considered to be too short a period.

On 17 December 1990 the Council (Economic and Financial Affairs) adopted conclusions defining the operation of the transitional VAT arrangements with a view to the final adoption of Community legislation on the matter as soon as possible. Under the transitional arrangements, which will be applicable from 1 January 1993 until 31 December 1996, all controls and formalities for tax purposes at intra-Community tax frontiers will be abolished, while the system of charging VAT only in the country of destination will be maintained on a temporary basis.

With regard to VAT rates, the Council unanimously adopted initial guidelines on the gradual approximation of VAT rates; it agreed that, before 1 January 1993, standard VAT rates:

- should not be reduced if they are less than 14% or raised if they are greater than 20%;
- should not be reduced below 14% or raised above 20% if they are in the 14 to 20% range.

In addition, Member States will, before 31 December 1991, seek agreement on a range of rates or, possibly, a minimum rate applicable as from 1 January 1993 within the limits proposed by the Commission for the standard rate. The Council will also have to decide before the same date on the scope of the reduced rates which Member States will be able to apply and on their level as at 1 January 1993. Reacting to the Council's conclusions, the Commission feared that adequate guarantees would not be given that the nature of the system suggested would be transitional. It emphasized that it could not fully endorse the Council's conclusions in view of the reservation entered by one Member State concerning the key issue of the abolition of the limits on purchases by travellers.

The Commission amended its original August 1987 proposals concerning excise duties on cigarettes and manufactured tobacco other than cigarettes, on mineral oils and on alcoholic beverages and the alcohol contained in other products in order to introduce some degree of flexibility in the rates of duty. This approach has resulted in the introduction of minimum rates or ranges which will have to be applied by all Member States as from 1 January 1993. Ultimately, this initial flexibility will have to lead to a movement in rates towards reference levels ('target rates').

The Commission also put the finishing touches to the system of excise duties, by submitting new proposals to the Council, not on the rates of duty but on the general rules governing the movement and control of dutiable goods after 1992 and on a new structure of excise duties.

The proposal relating to the general rules seeks to establish a definitive system of excise duties with no transitional period such as the one proposed for VAT.

A set of three proposals on the structure of excise duties applicable to alcoholic beverages, manufactured tobacco and mineral oils replaces a series of previous proposals, some of which have been before the Council since 1972. The aim of the new proposals is to set out a precise definition of goods which are subject to duty in order to secure a common tax base and to determine the exemptions to be granted. The Council also reached agreement on these new arrangements in December 1990.

Once the White Paper measures on VAT and excise duties come into force, one of the principal obstacles to the abolition of frontiers will have been removed.



1. CONTROL OF GOODS

Current problems and 1992 objectives

Since its establishment in 1958, the European Community has made efforts to alleviate internal frontier formalities and thus simplify the free movement of goods.

Article 30 of the Treaty, which prohibits all measures having an effect equivalent to quantitative restrictions on imports, and Article 95, which prohibits discriminatory taxation of products imported from other Member States, have been used extensively by the Commission, as guardian of the Treaty, and by the European Court of Justice to remove administrative obstacles at internal frontiers (i.e. excessive formalities linked with double taxation).

In terms of legislative action, the single administrative document (summary 1.1) is probably one of the main achievements in this field.

There is now a single document which is to be used for all consignments of goods crossing internal frontiers; this is already making for a considerable saving in paperwork, time and effort in the interim period until 1992. Once the objective of completing the internal market has been achieved, the single administrative document will cease to apply to dispatch, transit (except in certain limited cases) and arrival formalities for Community goods in intra-Community trade (summary 1.2).

The Community transit procedure, dating back to 1977 and most recently improved in 1987 (summary 1.3) and 1989 (summary 1.4) is another example of the achievements made possible by way of Community legislation.

The Council adopted in February 1990 a Regulation abolishing the lodging of a transit advice note when an intra-Community frontier is crossed (summary 1.11); this facilitates frontier controls as far as economic operators are concerned.

The abolition of exit formalities for goods travelling under TIR carnets (summary 1.5) is a first step towards achieving a single land border post at frontiers. The measure was then extended to include all goods (summary 1.6).

The Community has partially adopted a measure which allows the duty-free admission of fuel in standard tanks of coaches. The unadopted portion concerns the same measure for lorries (summary 1.7). The Community has already fully adopted a measure which abolishes postal fees for customs presentations (summary 1.8). The Council also adopted a Regulation on the abolition of controls on means of transport (summary 1.10).

In 1988 the Commission presented a proposal for a Regulation on the collection of statistics following the abolition of import formalities and controls on goods between Member States (summary 1.9).

This proposal was modified in June 1990.

In 1989 the Commission also tabled a new proposal amending Directive 80/836/Euratom laying down the basic safety standards for the health protection of the general public and workers against the dangers of ionizing radiation as regards the prior authorization of the transfer of radioactive waste (summary 1.12).

It should be stressed that completion of the internal market will result in the total abolition of controls and formalities for all goods at internal frontiers and for Community goods as far as trade between Member States is concerned.

With this in view, the Commission tabled two new proposals in September 1990. The first is a proposal for a Council Regulation concerning the elimination of controls and formalities

applicable to the cabin and checked baggage of passengers taking an intra-Community flight and the baggage of passengers making an intra-Community sea crossing (summary 1.13). The second is a proposal for a Council Directive amending Directive 83/643/EEC on the facilitation of physical inspections and administrative formalities in respect of the carriage of goods between Member States (summary 1.14).



1. CONTROL OF GOODS

1.1. Single administrative document: extension

<i>(1) Objective</i>	The original Council Regulation which introduced the Single Administrative Document (SAD) applied only to intra-Community trade in Community-produced goods. These additional measures aim to simplify trade documentation by extending the SAD to imports of non-Community goods and exports to third countries. They also extend the use of the SAD for the purpose of Community transit and certification of Community status.
<i>(2) Community measure</i>	Council Regulation (EEC) No 1900/85 of 8 July 1985 introducing Community import and export declaration forms. Council Regulation (EEC) No 1901/85 of 8 July 1985 amending Regulation (EEC) No 222/77 on Community transit.
<i>(3) Contents</i>	<ol style="list-style-type: none"> 1. Regulation 1900/85 applies to goods which, in trade with third countries or intra-Community trade, are neither of Member State origin nor in free circulation within the Community. 2. Form EX is to be used for: permanent or temporary export or re-export of goods outside the European Community; dispatch from one Member State to another under a customs procedure of goods which neither originate in a Member State nor are in free circulation within the Community. 3. Form IM is to be used for: placing goods imported into the European Community under any customs procedure; or placing goods which neither originate in a Member State nor are in free circulation in the Community in trade between two Member States under a customs procedure at destination. 4. Regulation 1901/85 applies the use of the SAD form to the movement of goods carried under the procedure of internal (T2) and external (T1) Community transit, and to the certification of Community status (T2L). 5. The right of free movement is applied to goods whose Community status is certified on a SAD form. 6. Goods carried under the external Community transit procedure must be the subject of a SAD and bear the symbol T1. 7. Goods carried under the procedure for internal Community transit must be the subject of the Single Administrative Document and bear the symbol T2.
<i>(4) Deadline for implementing Member State legislation</i>	None required.
<i>(5) Date of entry into force (if different from 4)</i>	1.1.1988
<i>(6) Reference</i>	Official Journal L 179, 11.7.1985
<i>(7) Follow-up work</i>	Regulation (EEC) No 1059/86/EEC (Official Journal L 97, 12.4.1986). Council Regulation of 8 April 1986 amending Regulation (EEC) No 1900/85 introducing Community export and import declaration forms.

*(8) Commission
implementing
measure*

Regulation (EEC) No 2793/86 (Official Journal L 263, 15.9.1986).
Commission Regulation of 22 July 1986 laying down the codes to be
used in the forms laid down in Council Regulations (EEC) Nos 678/85,
1900/85 and 222/77.



1. CONTROL OF GOODS

1.2. Single administrative document: reduction of scope (from 1 January 1993)

<i>(1) Objective</i>	To take action, as far as documentation is concerned, consequent upon the abolition of all controls and all formalities in regard to Community goods traded within the Community. The scope of the legislation governing SAD has to be modified substantially to take account of the situation created by Article 8a of the Treaty.						
<i>(2) Proposal</i>	Proposal for a Council Regulation concerning the single administrative document.						
<i>(3) Contents</i>	<p>1. Council Regulation (EEC) No 678/85 which provides that the SAD must be used for trade within the Community in Community products, is repealed as far as non-Community goods are concerned. An export or import declaration or a declaration placing goods under any other customs procedure, including the Community transit procedure, must be made on a SAD form.</p> <p>2. The Regulation sets out the circumstances in which Member States may require administrative documents other than that referred to in point 1.</p> <p>3. Declarations must be accompanied by the documents necessary to place the goods in question under the procedure requested. Lodging a signed declaration with a customs office indicates that the person concerned wishes to declare the goods in question. It also makes him liable for:</p> <ul style="list-style-type: none"> — the accuracy of the information given in the declaration, — the authenticity of the documents attached, — observance of all the obligations inherent in placing the goods in question under the procedure concerned. <p>4. The proposal provides for the setting up of a Single Administrative Document Committee empowered to examine any question relating to the implementation of the Regulation.</p> <p>5. It also lays down a procedure for the adoption of the provisions necessary for applying the Regulation, in particular those relating to:</p> <ul style="list-style-type: none"> — the form, — the codes to be used on the form, — the quality of the paper, the size of the form and the colour of the copies, — the explanatory notes on the use of the form. 						
<i>(4) Opinion of the European Parliament</i>	First reading: Parliament approved the Commission's proposal with amendments.						
<i>(5) Current status</i>	On 21 December 1990 the Council adopted a common position. In the framework of the cooperation procedure, this is currently before the European Parliament for a second reading.						
<i>(6) Reference</i>	<table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Commission proposal COM(90) 363 final</td> <td>Official Journal C 214, 29.8.1990</td> </tr> <tr> <td>European Parliament opinion First reading</td> <td>Not yet published.</td> </tr> <tr> <td>Economic and Social Committee opinion</td> <td>Not yet published in the Official Journal.</td> </tr> </table>	Commission proposal COM(90) 363 final	Official Journal C 214, 29.8.1990	European Parliament opinion First reading	Not yet published.	Economic and Social Committee opinion	Not yet published in the Official Journal.
Commission proposal COM(90) 363 final	Official Journal C 214, 29.8.1990						
European Parliament opinion First reading	Not yet published.						
Economic and Social Committee opinion	Not yet published in the Official Journal.						

1. CONTROL OF GOODS

1.3. Community transit procedure: guarantees

<i>(1) Objective</i>	As a major step towards achieving free movement of goods, this Regulation abolishes the requirement for a guarantee of payment of duties and fiscal charges arising from internal transit operations within the Community. However, it does not apply to high-value goods or those subject to high charges. The method used to determine whether or not a guarantee is necessary is intended to reduce the risk of incurred charges not being paid.
<i>(2) Community measure</i>	Council Regulation (EEC) No 1674/87 of 11 June 1987 amending Regulation (EEC) No 222/77 on Community transit.
<i>(3) Contents</i>	<ol style="list-style-type: none">1. A guarantee waiver may be granted to operators who:<ul style="list-style-type: none">— are resident in the Member State where the waiver is granted;— are regular users of the Community transit system;— are in a healthy financial position;— are not guilty of any serious infringement of customs or fiscal laws;— undertake to pay on demand any claims made upon them in respect of their transit operations as soon as possible.2. The guarantee waiver does not apply to goods whose total value exceeds ECU 50 000, or which are subject to a high level of duties or charges in other Member States.3. A certificate is issued whenever a waiver is granted.4. Customs authorities have the right to cancel the waiver if:<ul style="list-style-type: none">— the beneficiary does not undertake to pay charges for which he becomes liable;— he commits any breach of regulations;— he no longer meets the requirements mentioned above.
<i>(4) Deadline for implementing Member State legislation</i>	Not required.
<i>(5) Date of entry into force (if different from 4)</i>	1.7.1988
<i>(6) Reference</i>	Official Journal L 157, 17.6.1987
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measure</i>	



1. CONTROL OF GOODS

1.4. Community transit

(1) Objective

Substantially to adapt Community transit procedure in terms both of its scope and of its operating rules in order to take account of the completion of the internal market.

(2) Community measure

Council Regulation (EEC) No 2726/90, of 17 September 1990 on Community transit.

(3) Contents

1. From 1 January 1993 the Community transit procedure will apply in the main to non-Community goods (external Community transit and it will apply to Community goods (internal Community transit) only in quite specific cases: when goods are dispatched via the EFTA countries, or in trade between the Community of Ten and Spain and Portugal, or between those two countries, in goods to which the special measures laid down by the Act of Accession will continue to apply on a transitional basis.

2. In principal, Community goods moving within the Community will no longer be subject to customs controls and formalities. Such goods will move freely, as they do at present within any one Member State.

3. External Community transit:

The external Community transit procedure will apply to the movement of goods other than those originating in a Member State, products from third countries, goods coming under the Treaty establishing the European Coal and Steel Community not in free circulation in the Community, and goods that are subject to a Community measure entailing their export to a third country and for which the corresponding customs export formalities have been completed.

4. The external Community transit procedure will remain applicable in full; goods that are to be carried under that procedure must be the subject of a declaration.

5. The office of departure (i.e. the office where the Community transit operation begins) accepts and registers the declaration, and prescribes the period within which the goods must be produced at the office of destination.

6. The principal (i.e. the person responsible to the competent authorities for complying with all the obligations inherent in placing goods under the Community transit procedure) must produce the goods intact at the office of destination within the period prescribed. The carrier or the consignee of the goods who accepts them knowing that they have been placed under the Community transit procedure must likewise produce them intact at the office of destination within the period prescribed.

7. Identification of the goods is ensured by sealing. In order to ensure collection of the duties and other charges which a Member State is authorized to collect in respect of goods passing through its territory, the principal must furnish a guarantee. This may take the form of a comprehensive guarantee covering a number of Community transit operations or it may be a single guarantee covering one Community transit operation only.

8. Internal Community transit:

All goods to be carried under the internal Community transit procedure must be the subject of a declaration. In a wide variety of cases, a

guarantee may be waived. The internal Community transit procedure will continue to apply only in quite specific circumstances (e.g. where goods pass through an EFTA country — see above).

9. Special provisions applying to carriage by air or sea.

10. Special provisions applying to postal consignments.

(4) Deadline for implementing Member State legislation

Not required.

(5) Date of entry into force (if different from 4)

(6) Reference

Official Journal L 262, 26.9.1990

(7) Follow-up work

On 4 December 1990, the Council adopted a Commission proposal of August 1990 on the transitional measures applicable in the new *Länder* of the Federal Republic of Germany in the light of German reunification.

(8) Commission implementing measure



1. CONTROL OF GOODS

1.5. Abolition of exit customs formalities: TIR

<i>(1) Objective</i>	To reduce the number of checks at the Community's internal frontiers to one, in the framework of the TIR system. This one check will be carried out at the office of entry into a Member State.
<i>(2) Community measure</i>	Council Regulation (EEC) No 3690/86 of 1 December 1986 concerning the abolition within the framework of the TIR Convention of customs formalities on exit from a Member State at a land frontier between two Member States.
<i>(3) Contents</i>	<p>1. The Regulation applies to all formalities and checks on goods crossing land frontiers between Member States under cover of TIR carnets.</p> <p>2. The TIR Convention is the customs convention on the international transport of goods under cover of TIR carnets, signed in Geneva on 14 November 1975. Definition of internal frontier (for goods under TIR carnets) as a land frontier between Member States; office of exit as the customs office by which the goods/means of transport leave the territory of one Member State; office of entry as that at which they enter another.</p> <p>3. Where a TIR consignment (i.e. one travelling under a TIR carnet) crosses an internal frontier, formalities need only be completed at the office of entry.</p> <p>4. The office of entry is obliged to send to the Member State of exit any findings, documents, reports, records of proceedings or information on the formalities and checks in question which may be of interest to that Member State.</p> <p>5. Any questions arising from this Regulation may be put to the Committee on the Movement of Goods.</p>
<i>(4) Deadline for implementing Member State legislation</i>	None required.
<i>(5) Date of entry into force (if different from 4)</i>	1.7.87
<i>(6) Reference</i>	Official Journal L 341, 4.12.1986
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measure</i>	Commission Regulation (EEC) No 1544/87 of 3 June 1987 laying down detailed rules for the application of the abovementioned Council Regulation (Official Journal L 144, 5.6.1987).

1. CONTROL OF GOODS

1.6. Abolition of exit customs formalities: common border posts

(1) Objective

To reduce significantly customs formalities at internal land frontiers by requiring only a single customs check (instead of one on exit and one on entry), and by enabling officials of one Member State to act in the place of officials of an adjoining Member State with no loss of legal effect. The single check will be at the office of entry into a Member State.

(2) Community measure

Council Regulation (EEC) No 4283/88 of 21 December 1988 on the abolition of exit formalities at internal Community frontiers — introduction of common border posts.

(3) Contents

1. The Regulation applies to all checks and formalities carried out at Community internal land frontiers in connection with border crossing of goods accompanied by an ATA carnet, a Community movement carnet or Form 302 laid down under the convention between the parties to the North Atlantic Treaty on the status of their forces, signed in 1951. It does not cover the case where goods arrive at the customs office of exit and have to be placed under a dispatch or transit procedure at that point.
2. The office of exit is the customs office at the border of the Member State through which the goods have just travelled; the office of entry is the customs office at the border of the Member State through which the goods are to continue their journey.
3. When goods and/or a commercial vehicle cross a land frontier then only a single check shall be made for formalities and controls. It will be made at the office of entry where all formalities will be completed and any controls will be carried out on behalf of both the office of exit and the office of entry.
4. The Member State of entry must send to the Member State of exit any information that may be of interest.
5. If exit formalities have not been properly complied with, the office of entry may send the goods back to the Member State of exit.
6. Member States which share a common internal frontier must exchange information regarding:
 - rules applicable when leaving their territory;
 - lists of customs offices;
 - those individuals to be contacted at customs offices.
7. Questions that arise from this Regulation may be put to the Committee on the Movement of Goods.

(4) Deadline for implementing Member State legislation

None required.

(5) Date of entry into force (if different from 4)

1.7.1989



Official Journal L 382, 31.12.1988

(6) Reference

(7) Follow-up work

*(8) Commission
implementing
measure*

1. CONTROL OF GOODS

1.7. Duty-free admission of commercial vehicle fuel

(1) Objective

To increase the duty-free fuel allowance of commercial vehicles crossing common frontiers between Member States to 600 litres in the case of passenger vehicles and 200 litres in the case of goods vehicles. This will remove controls on ordinary fuel tanks, but problems will still arise when additional tanks are carried. This Directive has only been partially adopted for coaches. The Council is still considering increasing the volume for commercial goods vehicles to 600 litres and extending the Directive to cover lorries.

(2) Community measure

Council Directive 85/347/EEC of 8 July 1985 amending Directive 68/297/EEC on the standardization of provisions regarding the duty-free admission of fuel contained in the fuel tanks of commercial motor vehicles.

(3) Contents

1. A commercial motor vehicle is defined as one which is designed to carry either more than nine people, or to carry goods. A standard fuel tank is one which is permanently fitted by the manufacturer to all models of that vehicle.

2. Member States will admit duty-free the following quantities of fuel:
— 600 litres for commercial passenger vehicles;
— 200 litres for commercial goods vehicles.

This latter volume may be increased at a later date.

(4) Deadline for implementing Member State legislation

1.10.1985

(5) Date of entry into force (if different from 4)

(6) Reference

Official Journal L 183, 16.7.1985

(7) Follow-up work

(8) Commission implementing measure



1. CONTROL OF GOODS

1.8. Postal fees for customs presentations

<i>(1) Objective</i>	As a further step towards the abolition of formalities which apply to intra-Community trade, this Regulation removes postal fees for customs presentation of consignments of Community goods sent from one Member State to another.
<i>(2) Community measure</i>	Council Regulation (EEC) No 1797/86 of 9 June 1986 abolishing certain postal fees for customs presentation.
<i>(3) Contents</i>	<p>1. Postal fees for consignments of goods presented to customs can no longer be levied on goods sent from a Member State which either originate in a Member State or come from a third country and are in free circulation in the Community.</p> <p>2. Spain and Portugal may apply the same postal fees for customs presentation of goods coming from other Member States as are applied to goods from third countries until customs duties are eliminated in trade with the other Member States.</p>
<i>(4) Deadline for implementing Member State legislation</i>	Not required.
<i>(5) Date of entry into force (if different from 4)</i>	1.1.1988. Derogation for Spain and Portugal.
<i>(6) Reference</i>	Official Journal L 157, 12.6.1986
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measure</i>	

1. CONTROL OF GOODS

1.9. Statistics relating to the trading of goods between Member States

(1) Objective

The current formalities relating to the crossing of internal borders and the documentation and controls connected with these formalities enable the data required for statistical returns on intra-Community goods movements to be collected. After these formalities have been abolished, a new information collection system will have to be set up, in order to ensure that these returns can still be complied.

(2) Proposal

Proposal for a Council Regulation on the statistics relating to the trading of goods between Member States.

(3) Contents

1. Definition of the concepts of 'trading', 'goods', 'Community' or 'non-Community status of the goods', etc.
2. Definition of the general subject of statistics on the trading of goods between Member States and of the general subject of each type of statistics (transit, storage, trade) in relation to the others.
3. Provisions relating to a statistical collection system (Intrastat). Conditions under which this system applies in the Member States, and to particular goods and statistics. The collection of data relating to goods to which the Intrastat system does not apply will be laid down by the Commission.
4. Provisions relating to the party responsible for providing the information required by the Intrastat system. General definition of that party and conditions for transferring the task of providing the information.
5. Provisions relating to the compilation and updating by the Member States of registers of intra-Community operators for the Intrastat system.
6. Series of provisions concerning the statistical data media for the system, the transmission of those data, the competence of the Member States as regards penalties, the periodic surveys to be organized by the Commission and the Commission's report to the Council on the functioning of the Intrastat system.
7. Provisions on the Intrastat transitional phase, which will run from 1 January 1993 to the date of changeover to a unified system of taxation in the Member State of origin.
8. Definition of the concept of goods in free movement. Extension of the exemption from statistical obligations, for the sake of keeping in line with fiscal rules. Adaptation of the provisions relating to the transfer of the task of supplying information, the compilation and updating of the registers of intra-Community operators. The periodic declarations submitted by the parties responsible for providing the information will be used to transmit the statistical information to the competent national departments.
9. Amongst statistics of trade in goods, the regulations must apply as a matter of priority to statistics of trade between Member States. Definition of the subject matter of these statistics, of the Member States of dispatch and arrival, and of the application of the Intrastat system to these statistics. Provisions relating to goods and country classifications. Fixing of the list of characteristics to be recorded and definition of those characteristics. Provisions relating to the compilation of such statistics, the transmission of data by Member



States, confidential data and future simplification of the statistical information.

10. Provisions on the transitional phase for statistics of trade between Member States corresponding to the Intrastat system transitional phase.

11. Adaptation of the definitions of Member State of dispatch and Member State of arrival on the basis of a revision of the definition of the Community goods concerned, namely those which are not, as a general rule, in direct or interrupted transit in the Member State in question. Choice of the Combined Nomenclature as goods classification.

12. During the transitional phase for statistics of trade between Member States, the detailed statistical declaration will cover the following characteristics, by type of goods: the Member State of consignment or destination, the quantity of the goods in mass and supplementary units, the value of the goods, the nature of the transaction, the delivery terms and presumed mode of transport. Member States may also require mention of the third country of origin, the region of production or destination, and the port of loading or unloading.

13. Provisions relating to the fixing of statistical thresholds. Below these thresholds, and in line with the fiscal rules, the statistical obligations of some of the parties responsible for providing the information will be directly suspended or indirectly waived, whilst for other parties the same obligations will be simplified.

14. Institution of an advisory committee on statistics relating to the trading of goods between Member States, comprising Member States' representatives and chaired by a Commission representative.

15. Final provisions relating to transit and storage statistics, to conditions governing the confidential nature of statistical data and special movements of goods. Furthermore, the Commission will be responsible for simplified procedures and will ensure that automatic processing and electronic data transmission are used wherever possible.

(4) Opinion of the European Parliament

First reading: Parliament approved the Commission proposal with certain amendments. The Commission accepted some of these amendments.

(5) Current status

An amended proposal including Parliament's amendments held back by the Commission is awaited.

(6) Reference

Commission proposal COM(88) 810 final	Official Journal C 41, 18.2.1989
Amended proposal COM(90) 177 final	Official Journal C 177, 18.7.1990
Amended proposal COM(90) 423 final	Official Journal C 254, 9.10.1990
European Parliament opinion First reading	Not yet published.
Economic and Social Committee opinion	Official Journal C 159, 26.6.1989

1. CONTROL OF GOODS

1.10. Abolition of frontier controls relating to means of transport

<i>(1) Objective</i>	To abolish frontier checks and formalities related to road vehicles, their drivers, inland waterway vessels and the corresponding documentation.
<i>(2) Community measure</i>	Council Regulation (EEC) No 4060/89 of 21 December 1989 on the elimination of controls of Member States performed at the frontiers of Member States in the field of road and inland waterway transport.
<i>(3) Contents</i>	<ol style="list-style-type: none">1. Controls pursuant to Community and national measures in the fields of road and inland waterway transport between Member States shall no longer be performed at the frontiers between Member States.2. The Regulation defines:<ul style="list-style-type: none">— 'frontier' as either an internal frontier within the Community or an external frontier where carriage between Member States involves crossing a third country;— 'controls' as any checks at frontiers which involve a stop or signify a restriction on the free movement of the vehicles or vessels concerned.3. Annexes containing details of Community and national legislation which at present give rise to checks and inspections, e.g. controls of driving licences, insurance certification, roadworthiness certificates for motor vehicles and their trailers, technical requirements for inland waterway vessels, weights and dimensions of road vehicles, inspection of passenger lists for road services, checks on recording equipment, etc.
<i>(4) Deadline for implementing Member State legislation</i>	Six months.
<i>(5) Date of entry into force (if different from 4)</i>	1.7.1990
<i>(6) Reference</i>	Official Journal L 390, 30.12.1989
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measure</i>	



1. CONTROL OF GOODS

1.11. Abolition of the transit advice note

(1) Objective

Abolition of the requirement to lodge a transit advice note will mean further simplification for traders of the checks carried out at internal frontiers and the removal of a constraint, the result of which will be to facilitate and speed up the intra-Community movement of goods and streamline litigation procedures.

(2) Community measure

Council Regulation (EEC) No 474/90 of 22 February 1990, amending Regulation (EEC) No 222/77 in respect of the abolition of lodgement of the transit advice note on crossing an internal frontier of the Community.

(3) Contents

Abolition of the transit advice note on crossing an intra-Community frontier and adaptation of the existing legal framework to that end:

1. The carrier will give a transit advice note only to the customs office at the point of entry into, and at the point of exit from, the Community where the goods have passed through the territory of a third country.
2. Where the consignment has not been produced at the office of destination and the place of the offence or irregularity is not known, that offence or irregularity will be deemed to have been committed:
 - in the Member State of the office of departure, or
 - in the Member State of the office of transit which is situated at the point of entry into the Community and to which a transit advice note has been given,
 unless, within a period to be determined, proof is furnished of the regularity of the transit operation or of the place where the offence or irregularity was actually committed.
3. Where, in the absence of such proof, such offence or irregularity is deemed to have been committed in the Member State of departure or in the Member State of entry, duties and other taxes will be charged by that Member State in accordance with its laws, regulations and administrative provisions.
4. If, before expiry of a period of three years counting from the date of registration of the declaration, the Member State where the offence or irregularity was actually committed should be determined, that Member State will recover the duties and other taxes (with the exception of those accruing to the Community as own resources). In such cases, as soon as proof of such recovery is furnished, the duties and other taxes initially charged (with the exception of those accruing to the Community as own resources) will be refunded.
5. The guarantee under cover of which the transit operation has taken place will be discharged only on expiry of three years or, where appropriate, following payment of the duties and other taxes applicable in the Member States in which the offence or irregularity was actually committed.
6. Member States will take the necessary steps to combat any offences or irregularities and impose effective penalties in respect of any offences or irregularities which may occur.

(4) Deadline for implementing Member State legislation

Not applicable.

(5) Date of entry into force (if different from 4)

1.7.1990

(6) Reference

Official Journal L 51, 27.2.90

(7) Follow-up work

(8) Commission implementing measure



1. CONTROL OF GOODS

1.12. Protection against the dangers of ionizing radiation: transfer of radioactive waste

<i>(1) Objective</i>	To lay down a system of prior authorization for all movements of radioactive waste to increase protection against the dangers of ionizing radiation. To ensure the monitoring of and checks on the movement of radioactive waste in the Community and on importation and exportation.		
<i>(2) Proposal</i>	Proposal for a Council Directive amending Directive 80/836/Euratom laying down the basic safety standards for the health protection of the general public and workers against the dangers of ionizing radiation as regards prior authorization for transfers of radioactive waste.		
<i>(3) Contents</i>	<ol style="list-style-type: none"> 1. The proposal concerns the application by the Member States of a system of prior authorization for transfers of radioactive waste. 2. It provides for a common, mandatory system of notification and a uniform control document for the transfer of radioactive waste. 3. The proposed system covers all transfers of radioactive waste within the Community, including transfers within a Member State and the importation and exportation of radioactive waste. 4. The owner of the radioactive waste is required to notify the competent authorities in the Member State of the destination of all transfers of radioactive waste. In the case of a transfer from a Member State to a non-member country, the owner must obtain written authorization from the non-member country of destination via the competent authority in the Member State of dispatch. 5. The proposal states that the transfer may not take place until the competent authorities have received the notification authorizing the transfer. 6. The proposal lays down that the competent authorities may not authorize a transfer unless there is sufficient proof that the recipient of the radioactive waste is technically able to manage the waste in a suitable manner. 7. The general notification procedure may in particular be applied to transfers of radioactive waste generated in medical practice. 8. The proposed system also contains several features of the Basle Convention of 22 March 1989 on the control of transboundary movements of hazardous wastes and their disposal. 9. The provisions of this proposal also apply to shipments of radioactive waste involving the ACP countries. 		
<i>(4) Opinion of the European Parliament</i>	Not yet delivered.		
<i>(5) Current status</i>	The proposal is currently before the European Parliament for its opinion.		
<i>(6) Reference</i>	<table border="0"> <tr> <td data-bbox="427 1807 821 1928">Commission proposal COM(89) 559 final Economic and Social Committee opinion</td> <td data-bbox="895 1807 1337 1928">Official Journal C 5, 10.1.1990 Official Journal C 168, 7.10.1990</td> </tr> </table>	Commission proposal COM(89) 559 final Economic and Social Committee opinion	Official Journal C 5, 10.1.1990 Official Journal C 168, 7.10.1990
Commission proposal COM(89) 559 final Economic and Social Committee opinion	Official Journal C 5, 10.1.1990 Official Journal C 168, 7.10.1990		

1. CONTROL OF GOODS

1.13. Elimination of controls and formalities applicable to baggage

<i>(1) Objective</i>	To ensure the free movement of goods in the internal market by eliminating controls on the cabin and checked baggage of passengers taking an intra-Community flight and the baggage of passengers making an intra-Community sea crossing.	
<i>(2) Proposal</i>	Proposal for a Council Regulation concerning the elimination of controls and formalities applicable to the cabin and checked baggage of passengers taking an intra-Community flight and the baggage of passengers making an intra-Community sea crossing.	
<i>(3) Contents</i>	<ol style="list-style-type: none">1. The regulation prohibits the carrying out of controls and formalities in respect of:<ul style="list-style-type: none">— the cabin and checked baggage of passengers taking an intra-Community flight.— the baggage of passengers making an intra-Community sea-crossing.2. Definition of the terms 'Community airport', 'flight', 'intra-Community flight', 'Community port', 'sea crossing' and 'intra-Community sea crossing'.3. The regulation does not apply to the cabin or checked baggage of passengers taking a flight in an aircraft which:<ul style="list-style-type: none">— began its journey at a non-Community airport and continues it between two Community airports;— after a leg between two Community airports, continues its journey to a non-Community airport or to a final destination which is a non-Community airport.4. The regulation does not apply to the baggage of passengers using:<ul style="list-style-type: none">— a maritime service effected in a single vessel, comprising successive legs departing from, terminating in or calling at a non-Community port;— a pleasure craft whose itinerary depends on the wishes of the user.5. Checked baggage coming from a non-Community airport which is transferred at a Community airport to another aircraft proceeding on an intra-Community flight, would be controlled at the airport of destination of the intra-Community flight.6. Baggage loaded onto an aircraft proceeding on an intra-Community flight for transfer at another Community airport to an aircraft whose destination is a non-Community airport, would be controlled at the airport of departure of the intra-Community flight.	
<i>(4) Opinion of the European Parliament</i>	Parliament has not yet given its opinion.	
<i>(5) Current status</i>	The Parliament sent back the proposal to the parliamentary commission.	
<i>(6) Reference</i>	Commission proposal COM(90) 370 final Economic and Social Committee opinion	Official Journal C 212, 25.8.1990 Not yet published in the Official Journal.



1. CONTROL OF GOODS

1.14. Inspections and formalities on the carriage of goods between Member States

<i>(1) Objective</i>	To cut down the delays affecting traffic flow, which increase transport costs (and thus the final price of goods), by easing controls and formalities carried out at internal Community frontiers.				
<i>(2) Proposal</i>	Proposal for a Council Directive amending Directive 83/643/EEC of 1 December 1983 on the facilitation of physical inspections and administrative formalities in respect of the carriage of goods between Member States.				
<i>(3) Contents</i>	<ol style="list-style-type: none"> 1. Definition of the terms 'inspection' and 'formality'. 2. Member States must ensure that in the course of any carriage operation the various inspections and formalities are carried out as far as possible in one place, preferably the place of departure and/or destination of the goods. 3. Inspections are by means of spot checks. The sample base is defined. 4. The opening hours and staffing of the various departments (customs, veterinary, plant health, quality control etc.) and inland customs offices must be such as to enable inspections and formalities to be carried out throughout a stipulated period of the day, uninterruptedly. 				
<i>(4) Opinion of the European Parliament</i>	First reading: Parliament approved the Commission's proposal including certain amendments. The Commission accepted all of these amendments.				
<i>(5) Current status</i>	An amended proposal including Parliament's amendments withheld by the Commission, is awaited.				
<i>(6) Reference</i>	<table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Commission proposal COM(90) 356 final</td> <td style="width: 50%;">Official Journal C 204, 15.8.1990</td> </tr> <tr> <td>European Parliament opinion First reading</td> <td>Not yet published.</td> </tr> </table>	Commission proposal COM(90) 356 final	Official Journal C 204, 15.8.1990	European Parliament opinion First reading	Not yet published.
Commission proposal COM(90) 356 final	Official Journal C 204, 15.8.1990				
European Parliament opinion First reading	Not yet published.				

2. CONTROL OF INDIVIDUALS

Current problems and 1992 objectives

The abolition of all forms of border control on persons travelling within the Community requires the adoption of parallel measures ensuring that the police and the customs authorities are informed. Not much progress has been made on these so far, but the pace is quickening in response to the lead from the European Council.

As regards police checks, the problem is a complex one because the abolition of frontier controls is bound to concern everybody travelling within the Community, irrespective of where they are travelling from or their nationality.

To achieve this objective, a comparable level of protection for Community citizens against terrorism, drugs, illegal immigration and crime in general must be ensured, notably through organized cooperation. The controlling authorities, therefore, must carry out comparable checks at the Community's external frontiers.

To this end, the Community authorities are working to a precise programme, adopted by the European Council in Madrid in June 1989 ('the Palma document'), which identifies the measures essential for the abolition of border controls.

In some cases, the work is strictly confidential, and the Commission itself is involved in part only. In nearly all cases, the work does not involve preparing legislation on harmonization, but the coordination of policies or national procedures; this is why, unlike in other cases, full entries are not being made.

The following examples can, however, be given:

- Terrorism: The aim is to strengthen cooperation between police forces, which is becoming increasingly organized. The Trevi Group (Home Affairs Ministers) is responsible for this work.
- Drug trafficking: Here too, the aim is to organize cooperation between the police and customs authorities of the 12 Member States so as to strengthen controls at external frontiers and exchange information. This work is being carried out by several bodies under the umbrella of the Coordinators Group on drugs (Celad), set up at the European Council meeting in Strasbourg in December 1989.
- Immigration: In a frontier-free area, each State will have to carry out checks on behalf of the others; some Member States will therefore have to accept the need to tighten up policy so that, for instance, a national of a non-member country who is refused entry by one Member State cannot enter that State on a visa obtained in another. In June 1990, eleven Member States (Denmark being the odd man out) signed a convention concerning the procedures for vetting applications for asylum.
- Data protection: In practice, cooperation relies on information technology. There is a fear, given the variety of rules, that data will be used in some Member States in conditions that conflict with the protection of individual rights. In 1990 the Commission presented a set of proposals guaranteeing equivalent protection of individual rights. The Council has set itself the objective of signing by the end of 1990 a convention concerning checks at external frontiers (see summary 2.9).

In the customs field, the chief aim is to create the conditions for the abolition of controls on travellers' items and luggage.

Unlike police cooperation, this field is covered by regulations, where the Treaty cannot be invoked directly in order to eliminate unwarranted checks (as was the case recently with the carriage of medicine by individuals). The following entries describe the various measures currently applicable:



- Abolition of tax controls : This measure, which relates to individual travellers, involves first raising duty-free allowances and ultimately abolishing them by completely liberalizing this type of non-commercial traffic. Measures have been taken to adjust the level of duty-free allowances, but the most significant the doubling of current levels by 1990 is still at the proposal stage. Other measures are being discussed to facilitate the importation of vehicles and removals.
- Carriage of weapons : The proposal on control of the acquisition of weapons and facilitating their international carriage by sportsmen and marksmen has been transmitted to the Council and the European Parliament.

On 19 June 1990 France, the Federal Republic of Germany, Belgium, the Netherlands and Luxembourg signed the Schengen Convention, which will enable them to discontinue all border controls at their shared frontiers in 1992. The Convention comprises 142 Articles governing free movement of goods and people, and security.

The Convention was signed pursuant to the agreement reached at Schengen on 14 June 1985 by the five countries, which provided for relaxation of controls at their shared borders.

It will allow a dry run with five partners of the 12 member frontier-free Europe the Community hopes to set up by 1993 : it provides for border controls at the external frontiers of the 'Schengen territory', and common policies on visas and asylum within the territory. It also establishes a full system of cooperation between national police forces and courts to control criminal activities and illegal immigration.

The Convention, which is the fruit of five years of difficult negotiations, also provides for the measures to be extended throughout German territory after reunification.

On 27 November 1990, Italy officially signed, in Paris, the act concerning its accession to the Schengen Convention.

2. CONTROL OF INDIVIDUALS

2.1. Arms legislation

(1) Objective

To abolish controls on the possession of weapons at internal Community borders; Member States would remain free to take other measures to prevent unlawful trade in weapons. To enable Member States to do away with border controls, in particular by partially harmonizing national legislation and by introducing procedural arrangements for definitive or temporary transfers of firearms from one Member State to another.

(2) Proposal

Proposal for a Council Directive on control of the acquisition and possession of weapons.

(3) Contents

1. The Directive defines the terms 'weapon' and 'firearms', which also cover ammunition. A person in the weapons business is a 'dealer'.
2. Member States may adopt more stringent provisions.
3. To do business dealers require authorization. They must keep detailed records of all transactions in the firearms classified in categories A, B or C described below, giving details which enable the weapon to be identified (type, make, calibre and serial number) and the names and addresses of the supplier and the person acquiring the weapon.

4. Basing itself on the progress made in talks on the subject between the Member States party to the Schengen Agreement, the Directive calls for a partial harmonization of weapons legislation, with Member States remaining free to maintain or to introduce domestic legislation which is more stringent than the rules in the Directive. The Directive divides firearms into four categories:

A — prohibited firearms: mainly military weapons and those considered particularly dangerous;

B — firearms subject to authorization: these are mainly defensive weapons;

C — firearms subject to declaration: these are mainly hunting guns;

D — unrestricted firearms: these are shotguns of the least dangerous class.

The national authorities are to allow the possession of firearms in categories B and C only by persons who have good cause and who:

— are 18 years old or over;

— have the necessary mental and physical capacity;

— are not likely to be a danger to public order or public safety.

5. Persons are deemed to be residents of the country indicated by the address appearing on any identity document which they submit to the authorities of a Member State or to a dealer when a check is made on possession or on acquisition. If the person concerned is resident in the Member State in which he acquires the weapon, authorization to acquire it is to be a matter for that State alone. If he is resident in another Member State authorization is to require the agreement of both States. Authorization to possess a weapon depends only on the Member State in which the weapon is held, even if the person concerned is resident in another Member State. Member States are to prohibit the handing over of firearms to any person resident in another Member State unless he has authorization to receive them.



6. Firearms may be transferred from one Member State to another only if the transfer is authorized by the Member State of departure, and in certain cases by the Member State of destination too. Where a transfer is authorized, a licence is to be issued showing the names and addresses of the seller and the buyer; details allowing the weapon to be identified; the date of departure and estimated date of arrival of the weapon; the address to which the firearm is to be consigned or transported; the number of firearms to be consigned or transported; and the means of transfer. A copy of this licence is to be sent to the Member State of destination and to any Member State through whose territory the weapon is to pass.

7. A temporary transfer procedure is laid down to cover travel. Travellers other than hunters and marksmen will have to obtain the authorization of every Member State they propose to visit while in possession of a firearm. But this will be made easier if the traveller holds a European firearms pass, which will represent proof acceptable to all national administrations that the traveller is lawfully in possession of the weapon in his country of origin. The pass will be valid for a maximum of five years. The loss of a firearm will automatically result in the pass for that firearm being withdrawn. Decisions concerning the movement of the weapon will also be recorded on the pass, as will decisions on the possession of the same firearm by more than one person. The pass must always be in the possession of the person using the firearm.

8. Rather than requiring sportsmen and marksmen to seek authorization before every journey, as they are required to do at present, the Directive will entitle them to travel to other Member States, with their weapons, on condition that they possess a European firearms certificate and that they can establish the purpose of their journey (hunting, competition, etc.) if called upon to do so in the country visited.

9. The Directive does not affect national rules on the carrying of weapons or regulating hunting or target-shooting. It does not apply to the acquisition and possession of weapons by the armed forces, the police, the public authorities or bodies concerned with the cultural and historical aspects of weapons and recognized as such by the Member State in whose territory they are established. It would not prevent controls carried out by Member States or by the carrier at the time of boarding of a means of transport.

10. Each Member State is to intensify controls on the possession of weapons at external Community frontiers. Member States will be carrying out these controls on behalf of all the Member States.

11. An information exchange network is to be set up between Member States governing all transfers of weapons, whether definitive or not and whether lawful or unlawful, by 31 December 1991.

12. From 31 December 1992 at the latest Member States are to abstain from carrying out controls on the possession of weapons at internal Community frontiers.

(4) Opinion of the European Parliament

First reading: Parliament approved the proposal of the Commission with certain amendments. The Commission accepted some of these amendments.

(5) Current status

On 13 December 1990, the Council released a political agreement concerning a common position. The formal adoption of this common position will take place during the next session.

(6) Reference

Commission proposal COM(87) 383 final	Official Journal C 235, 1.9.1987
Amended proposal COM(89) 446 final	Official Journal C 299, 28.11.1989
Amended proposal COM(90) 453 final	Official Journal C 265, 20.10.90
European Parliament opinion First reading	Official Journal C 231, 17.9.1990
Economic and Social Committee opinion	Official Journal C 35, 8.2.1988



2. CONTROL OF INDIVIDUALS

2.2. Tax-free allowances: international travel

- | | |
|---|--|
| <i>(1) Objective</i> | To make travel and tourism within the Community easier by increasing tax-free allowances. |
| <i>(2) Community measure</i> | Council Directives 85/348/EEC of 8 July 1985, 87/198/EEC of 16 March 1987 and 88/664/EEC of 21 December 1988, amending Directive 69/169/EEC on the harmonization of provisions laid down by law, regulation and administrative action relating to exemption from turnover tax and excise duty on imports in international travel. |
| <i>(3) Contents</i> | <ol style="list-style-type: none"> 1. The amount of tax-free goods designated by value that may be imported has been increased in stages from ECU 280 to ECU 390, and for children under 15 the amount has been increased from ECU 60 to ECU 100. 2. Every two years (starting 31 October 1987) the Council must review these allowances to ensure the real value of permitted tax-free imports is not diminished. 3. Increases in the quantitative allowances for tobacco products, alcoholic beverages, perfumes, coffee and tea. For example, travelling between two Member States 300 cigarettes may be imported tax-free, 1.5 litres of spirits or 3 litres of fortified wine, 5 litres of still wine, 75 grams of perfume. Lower allowances apply if travelling between a Member State and a third country; for example, 200 cigarettes, 1 litre of spirits or 2 litres of fortified wine and 2 litres of still wine. 4. The unit value allowance for Denmark and Greece has been increased in stages from ECU 280 to ECU 310 and that for Ireland increased from ECU 77 to ECU 85. 5. Denmark is authorized to apply lower allowances to still wines and certain tobacco and alcohol products. |
| <i>(4) Deadline for implementing Member State legislation</i> | 1.7.1989 |
| <i>(5) Date of entry into force (if different from 4)</i> | Conditions for Denmark (see Follow-up work) expired on 1 January 1989. |
| <i>(6) Reference</i> | <p>Official Journal L 183, 16.7.1985
 Official Journal L 77, 20.3.1987
 Official Journal L 382, 31.12.1988</p> |
| <i>(7) Follow-up work</i> | <p>1 July 1991 and every two years thereafter. The Commission has tabled a proposal concerning Denmark which includes the following amendments to existing derogations for a period of a further two years:</p> <ul style="list-style-type: none"> — to abolish lower allowances for still wines; — to extend until 31 December 1990 the lower allowances for tobacco and spirits imported by Danish residents after a stay of less than 48 hours in another country; |

— to raise the Danish unit allowance to ECU 340 on 1 January 1990.
See also summary 2.3.

*(8) Commission
implementing
measure*



2. CONTROL OF INDIVIDUALS

2.3. Tax-paid allowances: increase in allowances in intra-Community travel

(1) <i>Objective</i>	To introduce a transitional phase designed to permit a gradual increase between now and 1992 in the tax-paid allowances for individuals travelling within the Community, given that on completion of the internal market on 1 January 1993 purchases made by travellers inclusive of all taxes will have to be completely liberalized.								
(2) <i>Proposal</i>	Proposal for a Council Directive amending Directive 69/169/EEC to increase in real terms the tax-paid allowances in intra-Community travel.								
(3) <i>Contents</i>	<p>1. It is proposed to increase the tax-paid allowance for goods subject only to VAT from its current level of ECU 390 to:</p> <ul style="list-style-type: none"> — ECU 800 on 1 January 1990, — ECU 1 200 on 1 January 1991, — ECU 1 600 on 1 January 1992. <p>The allowance for those under 15 years of age would rise from ECU 100 to:</p> <ul style="list-style-type: none"> — ECU 200 on 1 January 1990, — ECU 300 on 1 January 1991, — ECU 400 on 1 January 1992. <p>2. The derogations authorizing Denmark, Greece and Ireland to apply a unit allowance would gradually be abolished in accordance with the same timetable and would expire on 1 January 1992.</p> <p>3. It is also proposed to double between now and 1992 the quantitative limits for products subject to excise duties (e.g. tobacco and alcoholic beverages) at the same rate and to authorize Denmark to apply quantitative limits which would be lower but which would also be increased progressively each year up to 1993.</p> <p>4. The quantitative limits for tea and coffee will be abolished as from 1 January 1990.</p> <p>5. There would be an increase in two stages one in 1990 and the other in 1992 of the reduced allowances for frontier workers, persons resident in frontier areas and the crews of means of transport used in international travel.</p> <p>6. It should be noted that these allowances relate exclusively to goods of a non-commercial nature contained in travellers' personal luggage. Thus, only goods for personal or family use or intended as presents qualify; the nature or quantity of such goods must not be such as to indicate that they are being imported for commercial reasons.</p>								
(4) <i>Opinion of the European Parliament</i>	Parliament approved the Commission's proposal subject to two amendments accepted by the Commission.								
(5) <i>Current status</i>	The amended Commission proposal has been presented to the Council for adoption.								
(6) <i>Reference</i>	<table border="0" style="width: 100%;"> <tr> <td style="padding-right: 20px;">Commission proposal COM(89) 331/II final</td> <td>Official Journal C 245, 26.9.1989</td> </tr> <tr> <td>Amended proposal COM(90) 76 final</td> <td>Official Journal C 70, 20.3.1990</td> </tr> <tr> <td>European Parliament opinion</td> <td>Official Journal C 323, 27.12.1989</td> </tr> <tr> <td>Economic and Social Committee opinion</td> <td>Official Journal C 329, 30.12.1989</td> </tr> </table>	Commission proposal COM(89) 331/II final	Official Journal C 245, 26.9.1989	Amended proposal COM(90) 76 final	Official Journal C 70, 20.3.1990	European Parliament opinion	Official Journal C 323, 27.12.1989	Economic and Social Committee opinion	Official Journal C 329, 30.12.1989
Commission proposal COM(89) 331/II final	Official Journal C 245, 26.9.1989								
Amended proposal COM(90) 76 final	Official Journal C 70, 20.3.1990								
European Parliament opinion	Official Journal C 323, 27.12.1989								
Economic and Social Committee opinion	Official Journal C 329, 30.12.1989								

2. CONTROL OF INDIVIDUALS

2.4. Tax relief: small consignments of non-commercial goods

(1) Objective

To increase the amount of tax relief (from VAT and excise duties) available on small consignments of a non-commercial character sent from one private individual to another across internal EEC frontiers. This is to keep the real value constant taking cost-of-living increases into account.

(2) Community measure

Council Directives 85/349/EEC of 8 July 1985 and 88/663/EEC of 21 December 1988 amending Directive 74/651/EEC on the tax reliefs to be allowed on the importation of goods in small consignments of a non-commercial character within the Community.

(3) Contents

1. The value of goods on which relief from turnover taxes (e.g. VAT) and excise duties is allowed has been increased in stages from ECU 70 to ECU 110.
2. The unit value of goods which Ireland may exclude from tax relief has been increased in stages from ECU 77 to ECU 85.
3. The Council of Ministers must adjust the amounts of relief available every two years beginning at the latest on 31 October 1987.
4. If the tax due on goods in a small consignment worth more than ECU 100 is less than ECU 3, the tax need not apply.

(4) Deadline for implementing Member State legislation

1.7.1989. Derogation for Ireland.

(5) Date of entry into force (if different from 4)

(6) Reference

Official Journal L 183, 16.7.1985
Official Journal L 382, 31.12.1988

(7) Follow-up work

1 July 1991 and every two years thereafter.

(8) Commission implementing measure



2. CONTROL OF INDIVIDUALS

2.5. Tax exemption: small consignments and other final imports of goods

<i>(1) Objective</i>	To amend VAT exemptions concerning small consignments of imports so as to ensure consistency among Member States.
<i>(2) Community measure</i>	Council Directive 88/331/EEC of 13 June 1988 amending Directive 83/181/EEC 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.
<i>(3) Contents</i>	<ol style="list-style-type: none"> 1. Goods of a total value not exceeding ECU 10 shall be exempt from VAT on admission. Member States may grant exemption for imported goods of a total value of more than ECU 10 but not exceeding ECU 22. 2. Consignments addressed to authorized consignees which contain reference substances used for the quality control of medicinal products are to be imported free of VAT. 3. Awards, trophies and souvenirs for free distribution at business conferences and similar international events are to be VAT exempt. 4. Articles such as catalogues, price lists and brochures are exempt from VAT. They are added to the existing list of exempted imports related to: goods for sale or hire by a person established outside the Member State of import; transport, commercial insurance or banking services offered by a person established in a third country; the imports of printed matter concerning services offered by a person established in another Member State. 5. Fuel may be imported free from VAT if it is contained in the petrol tanks of private and commercial vehicles. 6. Definitions of 'commercial motor vehicle', 'private motor vehicle', 'standard tank' and 'special container'. 7. Wedding presents coming from third countries are also VAT exempt up to a value of ECU 200 although Member States may grant a further exemption of up to ECU 1 000.
<i>(4) Deadline for implementing Member State legislation</i>	1.1.1989
<i>(5) Date of entry into force (if different from 4)</i>	
<i>(6) Reference</i>	Official Journal L 151, 17.6.1988
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measure</i>	

2. CONTROL OF INDIVIDUALS

2.6. Tax exemption: permanent import of personal property

(1) Objective

To harmonize and relax the formalities to be completed for obtaining tax exemptions on permanent imports of personal property of individuals. The aim of this Directive, which covers, for example, the property of people intending to live in a Member State for a certain length of time, is to abolish the prior use requirements and the time-limits on subsequent disposal; it increases the allowances on certain goods.

(2) Community measure

Council Directive 89/604/EEC of 23 November 1989 amending for the first time Directive 83/183/EEC on tax exemptions applicable to permanent imports from a Member State of the personal property of individuals.

(3) Contents

1. Abolition of the requirement that items of personal property must have been in use for three months prior to importation, except in the case of motor vehicles, caravans, pleasure boats and private aircraft, where the six-month period of use remains applicable.
2. The requirement that personal property which was imported tax-free has to be used by the person concerned for at least 12 months after permanent importation before it can be disposed of has been abolished, except for in the case of means of transport.
3. An inventory of goods must be drawn up on plain paper and accompanied by a declaration if the Member State so requires. No reference to value may be demanded on the inventory of goods.
4. The quantitative limits on some goods subject to excise duty are raised to four times the duty-free allowances for intra-Community travellers under Directive 69/169/EEC, except for tobacco products which Member States may limit to the same quantities as are laid down in that Directive.
5. Duty-free importation of personal property is granted without any period of use in the case of a change of normal residence on the occasion of a marriage. In addition, exemption is granted for imported presents given on the occasion of a marriage which are received by a person qualifying for such duty-free importations, subject to a limit of ECU 350 per present. Member States may, however, grant an exemption exceeding ECU 350, provided that the value of each present does not exceed ECU 1 400.

(4) Deadline for implementing Member State legislation

1.7.1990

(5) Date of entry into force (if different from 4)



(6) *Reference*

Official Journal L 348, 29.11.1989

(7) *Follow-up work*

(8) *Commission
implementing
measure*

2. CONTROL OF INDIVIDUALS

2.7. Tax exemption: temporary import of means of transport

(1) Objective

Obstacles to the free movement of private vehicles are one of the problems most directly affecting individuals in the Community. The 1983 Directive (Directive 83/182/EEC, Official Journal L 105, 23.4.1983) represented an important initial breakthrough in efforts to settle a large number of practical aspects. The amending proposal is designed to solve problems which could not be settled by the 1983 Directive but which are perceived as being unacceptable.

(2) Proposal

Proposal for a Council Directive amending Directive 83/182/EEC on tax exemptions within the Community for certain means of transport temporarily imported into one Member State from another.

(3) Contents

Problems in the following areas, among others, should be settled:

1. Hire-cars in intra-Community travel. A resident of a Member State should be able to drive a 'foreign' hired car, which has been temporarily imported, to any other Member State, and in particular to the Member State in which the car-hire company is established. Re-export must take place within eight days.
2. Extension of the exemption to persons other than the one who imported the vehicle temporarily. Apart from the obvious case in which a resident of the Member State of temporary importation should be able to drive a temporarily imported vehicle if the person who imported it is a passenger, it should also be legally permissible for a resident of the Member State of temporary importation to use the vehicle whenever the person who imported it is in that Member State.
3. Company vehicles. The use of a company car placed, by an employer established in a Member State, at the disposal of an employee resident in the Member State of temporary importation for the purpose of carrying out his occupational duties, and the use of a company car by a frontier-zone worker for travelling between his place of work and his normal residence, and in his free time, may no longer be subject to a time limit. Private use must also be permitted to cover family use.
4. Students. A person who enters a Member State other than that in which he is normally resident in order to take up studies retains his normal residence in the latter Member State. He is entitled, for the duration of his studies, to temporary exemption in respect of his private vehicle. This right also extends to the student's spouse or to a companion who has a stable relationship with him (provided that the legislation of the Member State applies that concept) where the person is normally resident in the Member State in which the studies are carried out.
5. Immobilization in a foreign country. If his own vehicle breaks down during his stay abroad, a resident of a Member State should be entitled to use in his own country, for a reasonable period of time, a private vehicle registered in another Member State which he has hired or borrowed for the purpose of returning home. Such exemption must be granted for the period during which the vehicle is being repaired; this period may not exceed two months, unless the vehicle is retained in connection with police investigations.
6. Short-term hire in order to be able to return home in unforeseen circumstances, a resident of a Member State should be entitled to



import temporarily a vehicle registered in another Member State which has been hired from a car-hire company. The period during which he will be entitled to use the vehicle in the Member State in which he is normally resident may not exceed eight days from the start of the hire.

7. Infringements and sanctions. It will no longer be possible for a vehicle imported temporarily without being covered by one of the provisions of Directive 83/182/EEC to be regarded by the Member States as having been imported permanently. Furthermore, it will not be possible for any administrative sanction to be applied if the person who imported the means of transport or who uses it has acted in good faith and can prove that he clearly had no intention of evading taxation in the Member State of importation.

8. Arbitration. Where two Member States claim that the same person has his normal residence in their respective territories, the authorities of those States must consult each other to decide which should be regarded as the country of normal residence for the purpose of taxing the vehicle.

(4) Opinion of the European Parliament

Parliament made several recommendations for amendments, all of which were incorporated in the amended proposal.

(5) Current status

The proposal is currently before the Council for adoption.

(6) Reference

Commission proposal COM(87) 14 final	Official Journal C 40, 18.2.1987
Amended proposal COM(88) 297 final	Official Journal C 181, 14.8.1988
European Parliament opinion Economic and Social Committee opinion	Official Journal C 318, 30.11.1987 Official Journal C 180, 8.7.1987

2. CONTROL OF INDIVIDUALS

2.8. Easing of controls at intra-Community borders

<i>(1) Objective</i>	To ease controls and formalities for Member State nationals when crossing intra-Community borders particularly by abolishing all police and customs formalities.	
<i>(2) Proposal</i>	Proposal for a Council Directive on the easing of controls and formalities applicable to nationals of the Member States when crossing intra-Community borders.	
<i>(3) Contents</i>	<p>1. The Directive lays down a number of conditions for easing controls and formalities for individuals at internal frontiers. It applies to Member State nationals crossing internal borders who comply with all regulations concerning tax-free import of goods, etc. It applies to all controls and formalities relating to individuals and goods carried by them, including currency. It does not apply to commercial carriage of goods.</p> <p>2. Member States must ensure that internal border controls and formalities are operated according to the principle of free passage so that Member State nationals can cross borders unchecked. However, Member States are permitted to carry out spot checks, and impose temporary border controls in special circumstances, e.g. for security purposes. This Directive does not apply to security checks at airports.</p> <p>3. Member State nationals who fulfil these conditions shall be permitted merely to drive across borders at reduced speed (or walk across), enabling officials to stop vehicles for spot checks when considered necessary. Vehicles may fix a disk bearing the letter E on a green background to declare that all occupants are Community nationals with nothing to declare. Customs signs should be removed from borders.</p> <p>4. In ports and airports special channels for citizens of Member States should be set up.</p> <p>5. No checks shall be made on individuals crossing borders on international trains.</p> <p>6. Member States shall confer with each other in the implementation of the Directive.</p>	
<i>(4) Opinion of the European Parliament</i>	The European Parliament approved the proposal subject to a number of recommendations for amendment. These included a recommendation that simple visual checks of vehicles should be extended to pedestrians crossing a border between Member States. The Commission adopted these in its modified proposal.	
<i>(5) Current status</i>	The amended proposal of the Commission is before the Council for adoption.	
<i>(6) Reference</i>	Commission proposal COM(84) 749 final	Official Journal C 47, 19.2.1985
	Amended proposal COM(85) 224 final	Official Journal C 131, 30.5.1985
	European Parliament opinion	Official Journal C 122, 20.5.1985
	Economic and Social Committee opinion	Official Journal C 169, 8.7.1985



2. CONTROL OF INDIVIDUALS

2.9. Processing of personal data

(1) Objective

To establish a high level of equivalent protection in all the Member States of the Community in order to remove the obstacles to the exchange of data which is necessary if the internal market is to function.

(2) Proposal

Proposal for a Council Directive concerning the protection of individuals in relation to the processing of personal data.

Draft resolution of the representatives of the Governments of the Member States of the European Communities meeting within the Council.

Recommendation for a Council Decision on the opening of negotiations with a view to the accession of the European Community to the Council of Europe Convention for the protection of individuals with regard to the automatic processing of personal data.

(3) Contents

Proposal for a Council Directive

1. This Directive provides for an equivalent level of protection of individuals in relation to the processing of personal data in accordance with the same principles in all the Member States. The protection of individuals and the flow of data are guaranteed only in respect of the areas covered by this Directive.

2. Definition of the concepts of 'personal data', 'depersonalized', 'personal data file', 'processing', 'controller of the file, supervisory authority', 'public sector' and 'private sector'.

3. This Directive applies to all data files in the private and public sector with the exception of files in the public sector where the activities of that sector do not fall within the scope of Community law.

4. Each Member State shall apply the provisions of this Directive to:

- all files located in its territory;
- the controller of a file resident in its territory who uses from its territory a file located in a third country whose law does not provide an adequate level of protection, unless such use is only sporadic.

5. Lawfulness of processing in the public sector.

The creation of a file in the public sector and any other processing of personal data shall be lawful only in so far as this is necessary for the performance of the tasks of the public authority in control of the file.

The processing of data for a purpose other than that for which the file was created is lawful if:

- the data subject consents thereto;
- it is effected on the basis of Community law, or of a law, or a measure taken pursuant to a law, of a Member State conforming with this Directive which authorizes it and defines the limits thereto;
- the legitimate interests of the data subject do not preclude such change of purpose;
- it is necessary in order to ward off an imminent threat to public order or a serious infringement of the rights of others.

As regards the processing of personal data in the public sector having as its objective the communication of personal data, the Member States require that this communication be lawful only if:

- it is necessary for the performance of the tasks of the public-sector entity communicating or requesting communication of the data, or
- it is requested by a natural or legal person in the private sector who invokes a legitimate interest, on condition that the interest of the data subject does not prevail.

6. Lawfulness of processing in the private sector. This can be based on the consent of the data subject or, in its absence, on the existence of a contractual relationship between the controller of the file and the data subject. The lawfulness may also be based on the fact that the data come from sources generally accessible to the public and their processing is intended for correspondence purposes, or on a balance of interests which reveals that the controller of the file is pursuing a legitimate interest and the interest of the data subject does not prevail. The data subject must, with some exceptions, be informed of the communication of data to third parties. Provision has been made for a procedure for notifying data files to a national supervisory authority.

7. The Directive also contains a number of provisions relating to the rights of data subjects, such as:

- informed consent;
- provision of information at the time of collection: Member States guarantee the right to be informed to individuals from whom personal data are collected;
- additional rights of data subjects (right of object, access, rectification, etc.);
- exceptions to the data subject's right of access to public-sector files.

8. On data quality, the Directive makes provision for:

- special categories of data: Member States shall prohibit the automatic processing of data revealing sensitive information. They may, on the basis of a law, grant derogations on important public interest grounds. Data concerning criminal convictions may be held only in public-sector files;
- data security: the controller of a file is required to take security measures. In the event of on-line consultation, the hardware and software must be designed in such a way that the consultation takes place within the limits of the authorization granted by the controller of the file. Any person who in the course of his work has access to information controlled in files may not communicate it to third parties without the agreement of the controller of the files.

9. Member States may make provisions specifically relating to certain sectors such as the press and audiovisual media, and encourage business circles to participate in drawing up codes of conduct.

10. Personal data may be transferred to a third country only if this country ensures an adequate level of protection. Derogations are possible under certain conditions.

11. A working party on the protection of personal data is set up, composed of representatives of the national supervisory authorities and chaired by a representative of the Commission.

Draft resolution

The Governments of the Member States undertake to apply the principles of the general directive to public-sector files in those parts



of the public sector which do not fall within the scope of Community law.

Recommendation for a Council Decision

The Commission request the Council to authorize it to negotiate a Protocol enabling the Community to accede to the Council of Europe Convention.

(4) Opinion of the European Parliament

Not yet delivered.

(5) Current status

The proposal for a general directive is currently before Parliament and the Economic and Social Committee for their opinion.

(6) Reference

Commission proposal
COM(90) 314 final

Official Journal C 277, 5.11.1990

3. VALUE-ADDED TAX

Current problems and 1992 objectives

The Community started constructing a harmonized system of value-added tax in 1967 when a Directive was adopted requiring Member States to replace their existing national turnover taxes with a value-added tax system. Since then, the system has been developed considerably, particularly by the sixth Directive of 1977 which introduced a uniform basis of assessment. However, the number of tax rates and their levels still vary from one Member State to another and transitional derogations from the uniform basis of assessment remain in effect.

Completion of the internal market requires the abolition of tax frontiers between Member States. The existence of these tax frontiers means that transactions within a Member State are currently treated differently from intra-Community transactions, and their abolition calls for major changes in indirect taxation. In August 1987, the Commission proposed amendments to the existing Community legislation in this field.

Two of the prerequisites for the removal of tax frontiers in intra-Community trade are the abolition of the current system of refunding the value-added tax on exported goods and charging it on imported goods, and the scrapping of limits on travellers' tax allowances.

Another important Commission proposal aims to reduce the number of VAT rates to two and to bring the levels of each rate sufficiently close together in all Member States (summary 3.2) to avoid the risk of distortion of competition once tax frontiers are abolished.

In addition, there is a transitional proposal (summary 3.3) to prevent any changes in the systems currently in force in Member States which would take them further away from the proposed common rate bands; this is designed to facilitate implementation of the main measure.

On 13 November 1989 the whole issue of the abolition of tax frontiers was re-examined by the Ministers for Finance. The approach adopted by the Council provides, during a transitional period after 1992, for the retention of differential treatment according to whether transactions are carried out between Member States or within Member States, but this without frontier checks. However, the Council failed to reach agreement either on the approximation of VAT rates or on the abolition of the system of travellers' tax allowances.

The Commission entered a general reservation concerning the Council's conclusions, pointing out that the Council had not yet shown the political will necessary for tax frontiers to be abolished.

In response to the conclusions of the European Council in Strasbourg inviting it to 'adopt as soon as possible, on a proposal from the Commission, the decisions which will make the process of the complete abolition of fiscal frontiers irreversible' and to supplement the arrangements agreed 'by the elements which will be essential in particular to enable the progressive approximation of VAT rates', the Council has continued its deliberations on this point.

At the Council meeting (Economic and Financial Affairs) on 18 December 1989, the following conclusions were drawn to supplement those of the Council meeting (Economic and Financial Affairs) of 13 and 14 November 1989 on the abolition of tax frontiers:

- the abolition of restrictions on purchases by individuals means that Member States will have to bring their rates closer together. If the consequences are to remain manageable for all, this approximation must be coordinated and balanced. The Member States therefore agree that it is necessary to avoid increasing the divergences



between their VAT rates and that the standard rate they apply to most goods and services should not, between now and 1 January 1993:

- be reduced if it is less than 14%, nor raised if it is greater than 20%;
 - be reduced below 14% nor raised above 20%, if it falls between 14 and 20%.
- The taxation of intra-Community trade in the country of destination and special treatment applied to certain classes of transaction must enable most distortions of competition to be prevented. Member States will seek agreement between now and 31 December 1991 on a range of rates or, possibly, a minimum rate applicable as from 1 January 1993 within the limits proposed by the Commission for the standard rate;
 - the reduced rates will be reserved in particular for essential goods and services meeting a social or cultural policy objective and will be jointly defined. In order to prevent distortions of competition and to continue the process of harmonization, the Council will, before 31 December 1991, decide on the scope of the reduced rates which Member States will be able to apply and on the 1 January 1993 level. It will also decide on the products which can continue to be zero-rated without this entailing distortions of competition among Member States.

On 3 December 1990 the Council (Economic and Financial Affairs) approved conclusions defining some of the main arrangements for application of the transitional VAT systems and specifying the control mechanisms to be set up in that context, its intention being to adopt as soon as possible the various proposals for legislation presented by the Commission. These proposals are as follows:

- the first proposal concerns the transitional taxation arrangements under which frontier checks are to be completely abolished after 31 December 1992, both for firms and individuals. These transitional arrangements will end no later than 31 December 1996, when the definitive arrangements would come into force (summary 1.13);
- the second proposal concerns administrative cooperation between Member States. It is designed to make anti-fraud measures more effective and to increase trust between the authorities responsible for applying the new system (summary 1.14);
- the final proposal, relating to the statistical aspects of trade in goods between Member States, amends the proposal for a Council Regulation on the statistics relating to intra-Community trade in goods. It is designed to ensure consistency between the tax and statistical obligations on firms under the transitional VAT arrangements following the abolition of frontier checks (see chapter 'Control of Goods').

As part of the programme for completing the large internal market, the Community is attempting to complete the harmonization of the VAT base and to improve the operation of the common VAT system. A proposal recently adopted by the Council (18th VAT Directive: 89/465/EEC) abolishes certain derogations from the normal VAT arrangements, namely exemptions and taxation applied on a transitional basis (summary 3.1). In 1986, a 13th VAT Directive was adopted which lays down the arrangements for the refund of VAT to taxable persons not established in Community territory (summary 1.9).

3. VALUE-ADDED TAX

3.1. Uniform basis of assessment: abolition of derogations (18th VAT Directive)

<i>(1) Objective</i>	To abolish a number of the temporary derogations permitted to Member States. This is necessary to complete arrangements for the uniform basis of assessment and to simplify calculation of the Community's own resources accruing from VAT.
<i>(2) Community measure</i>	Eighteenth Council Directive 89/465/EEC of 18 July 1989 on the harmonization of the laws of the Member States relating to turnover taxes — Abolition of certain derogations provided for in Article 28(3) of the sixth Directive 77/388/EEC (common system of value-added tax).
<i>(3) Contents</i>	<p>The Directive abolishes some of the derogations from the common VAT system provided for in Article 28(3) of Directive 77/388/EEC; the remaining exceptions include:</p> <ul style="list-style-type: none">— transactions in gold, other than gold for industrial use;— services supplied by authors, artists and performers;— those derogations provided for in Article 28(3) (c), (d) and (e) of Directive 77/388/EEC.
<i>(4) Deadline for implementing Member State legislation</i>	<ul style="list-style-type: none">— 1.1.1990: for points 1, 3-6, 8-10 and 12-14 of Annex E; and for points 3, 14 and 18-22 of Annex F;— 1.1.1991: for points 4, 13, 15 and 24 of Annex F;— 1.1.1992: for point 9 of Annex F;— 1.1.1993: for point 11 of Annex F. <p>Derogation for Portugal until 1 January 1994 for points 3 and 9 of Annex F.</p>
<i>(5) Date of entry into force (if different from 4)</i>	See point 4.
<i>(6) Reference</i>	Official Journal L 226, 3.8.1989
<i>(7) Follow-up work</i>	Before 1 January 1991, the Council will review the situation, on the basis of a report and possibly a proposal from the Commission, with a view to completion of the internal market.
<i>(8) Commission implementing measure</i>	



3. VALUE-ADDED TAX

3.2. Approximation of rates

<i>(1) Objective</i>	To limit the number of VAT rates to two and to fix a band for each rate, with a view to the abolition of fiscal frontiers between Member States.	
<i>(2) Proposal</i>	Proposal for a Council Directive supplementing the common system of value-added tax and amending Directive 77/388/EEC on the approximation of VAT rates.	
<i>(3) Contents</i>	<ol style="list-style-type: none"> 1. All Member States will be required to have only a standard rate and a reduced rate of VAT. 2. The standard rate will have to be between 14 and 20%. 3. The reduced rate will have to be between 4 and 9%. 4. The reduced rate will apply to: foodstuffs (except alcohol); energy products for heating and lighting; water supplies; pharmaceutical products; books; newspapers; periodicals and passenger transport. 5. All other goods and services will be subject to the standard rate. 	
<i>(4) Opinion of the European Parliament</i>	Not yet given.	
<i>(5) Current status</i>	The proposal is currently before the Council.	
<i>(6) Reference</i>	Commission proposal COM(87) 321 final Economic and Social Committee opinion	Official Journal C 250, 18.9.1987 Official Journal C 237, 12.9.1988

3. VALUE-ADDED TAX

3.3. Convergence of rates

<i>(1) Objective</i>	To prevent any further divergence between Member States' VAT and excise duty rates and those proposed by the Commission, pending approximation of these rates. This is an interim measure to facilitate implementation of the proposal described in summary 3.2.	
<i>(2) Proposal</i>	Proposal for a Council Directive instituting a process of convergence of value-added tax and excise duties.	
<i>(3) Contents</i>	<ol style="list-style-type: none">1. Pending the adoption of the Directive approximating VAT (summary 3.2), Member States shall not alter the number and level of rates except as provided for in this Directive.2. Member States with three or more rates of VAT may reduce that number to two.3. Member States with only one VAT rate may introduce a second, so as to have a reduced rate and a normal rate.4. Member States may amend the levels of their reduced and standard VAT rates on condition that this brings the rates closer to the proposed brackets of 4 to 9% for the reduced rate and 14 to 20% for the standard rate. They may also reduce or abolish their increased tax rates.5. Pending adoption of the Directives approximating excise duty rates, Member States shall not introduce new excise duties or comparable indirect taxes which give rise to taxation on imports and tax remission on exports or to frontier controls. In addition, they may not increase rates or enlarge the scope of existing excise duties or indirect taxes. However, these provisions do not apply to the excise duties on manufactured tobacco, alcoholic beverages and mineral oils for the reasons indicated in point 6 below.6. Member States may amend their rates of duty on alcoholic beverages, manufactured tobacco and mineral oils provided these amendments bring the rates nearer those set out in this Directive.	
<i>(4) Opinion of the European Parliament</i>	Not yet given.	
<i>(5) Current status</i>	The proposal has been sent to Parliament for an opinion.	
<i>(6) Reference</i>	Commission proposal COM(87) 324 final Economic and Social Committee opinion	Official Journal C 250, 18.9.1987 Official Journal C 237, 12.9.1988



3. VALUE-ADDED TAX

3.4. Non-deductible expenditure (proposal for a 12th VAT Directive)

<i>(1) Objective</i>	To harmonize Member States' value-added tax systems regarding the treatment of business expenditure.								
<i>(2) Proposal</i>	Proposal for a 12th Council Directive on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value-added tax: expenditure not eligible for deduction of value-added tax.								
<i>(3) Contents</i>	<ol style="list-style-type: none"> 1. Value-added tax on expenditure relating to aircraft and pleasure boats will not be deductible. 2. Value-added tax on expenditure relating to passenger cars and motor cycles will be 50% deductible four years after entry into force of the Directive. Within two years of that date, Member States will have to fix the deductible percentage between 25 and 75%. 3. Full deduction will be permitted where such vehicles and craft are used for carriage for hire or reward, for training or instruction, for hiring out or where they form part of the stock-in-trade for a business. 4. Value-added tax on transport expenses of taxable persons (business travel) and their staff will be subject to the same rules and to the same timetable as specified for 2 above. 5. Value-added tax on expenditure on accommodation, food and drink will not be deductible, except where the supply of these is the taxable person's business or where they are supplied free of charge to security or caretaking staff on business premises. 6. Value-added tax on expenditure on amusements and luxuries will not be deductible. 								
<i>(4) Opinion of the European Parliament</i>	Parliament proposed several amendments which were accepted by the Commission.								
<i>(5) Current status</i>	The Commission's amended proposal is before the Council for examination.								
<i>(6) Reference</i>	<table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Commission proposal COM(82) 870 final</td> <td style="width: 50%;">Official Journal C 37, 10.2.1983</td> </tr> <tr> <td>Amended proposal COM(84) 84 final</td> <td>Official Journal C 56, 29.2.1984</td> </tr> <tr> <td>European Parliament opinion</td> <td>Official Journal C 342, 19.12.1983</td> </tr> <tr> <td>Economic and Social Committee opinion</td> <td>Official Journal C 206, 6.8.1984</td> </tr> </table>	Commission proposal COM(82) 870 final	Official Journal C 37, 10.2.1983	Amended proposal COM(84) 84 final	Official Journal C 56, 29.2.1984	European Parliament opinion	Official Journal C 342, 19.12.1983	Economic and Social Committee opinion	Official Journal C 206, 6.8.1984
Commission proposal COM(82) 870 final	Official Journal C 37, 10.2.1983								
Amended proposal COM(84) 84 final	Official Journal C 56, 29.2.1984								
European Parliament opinion	Official Journal C 342, 19.12.1983								
Economic and Social Committee opinion	Official Journal C 206, 6.8.1984								

3. VALUE-ADDED TAX

3.5. Common value-added tax scheme applicable to small and medium-sized businesses (proposal for a 22nd VAT Directive)

<i>(1) Objective</i>	To simplify the operation of the VAT system for small and medium-sized businesses and to bring individual Member State schemes closer into line with each other.	
<i>(2) Proposal</i>	Proposal for a Council Directive amending Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes in respect of the common value-added tax scheme applicable to small and medium-sized businesses.	
<i>(3) Contents</i>	<ol style="list-style-type: none">1. Businesses that have an annual turnover of less than ECU 10 000 are to be VAT exempt. Businesses with an annual turnover of less than ECU 35 000 may be eligible for exemption at the option of the individual Member States.2. A simplified scheme for charging and collecting VAT is to be introduced for businesses having an annual turnover of less than ECU 200 000.3. These simplified schemes will work on the basis of annual returns and monthly or quarterly advance payments.4. The ceilings for exemption and eligibility for the simplified schemes will be revised annually by the Commission to maintain their values in real terms.5. The equivalents in national currencies of the amounts expressed in ecus will be fixed annually by the Commission.	
<i>(4) Opinion of the European Parliament</i>	Parliament approved the proposal subject to some recommendations for amendment. These included: the ceiling for the simplified scheme to be raised to ECU 200 000 (amendment accepted by the Commission); the optional tax exemption to be reviewed within two years; and the Member States to be able to introduce graduated tax relief for businesses with a turnover of up to ECU 35 000.	
<i>(5) Current status</i>	The proposal is currently being discussed by the Council.	
<i>(6) Reference</i>	Commission proposal COM(86) 444 final	Official Journal C 272, 28.10.1986
	Amended proposal COM(87) 524 final	Official Journal C 310, 20.11.1987
	European Parliament opinion	Official Journal C 190, 20.7.1987
	Economic and Social Committee opinion	Official Journal C 83, 30.3.1987

3. VALUE-ADDED TAX

3.6. Common value-added tax scheme : proposal for a 19th Directive

<i>(1) Objective</i>	To bring the Member States' VAT systems closer together by clarifying certain terms and defining certain concepts used in the earlier EEC legislation on the VAT assessment basis.	
<i>(2) Proposal</i>	Proposal for a 19th Council Directive on the harmonization of the laws of the Member States relating to turnover taxes, amending Directive 77/388/EEC on the common system of value-added tax.	
<i>(3) Contents</i>	<p>In particular:</p> <ol style="list-style-type: none"> 1. Clarification of the place of supply of services in the case of air and sea transport, and of the expressions 'forms of transport', and 'fixed establishment'. 2. Clarification of the substance of certain exemptions from VAT. 3. Use of customs value as the taxable amount for VAT purposes only when VAT is charged on imports from third countries. 4. The supply of sea-going vessels and aircraft intended for breaking-up is added to the list of VAT-exempt products. 5. Rules on refunds to taxable persons and on deductions for purchases by banks. 	
<i>(4) Opinion of the European Parliament</i>	Parliament approved the proposal subject to a number of suggested amendments. The Commission took up one of these, the effect of which is that supplies of works of art by their creators will remain subject to VAT. However, the temporary derogations for supplies of services by authors and by creative and performing artists is maintained.	
<i>(5) Current status</i>	The proposal is currently before the Council for adoption.	
<i>(6) Reference</i>	Commission proposal COM(84) 648 final	Official Journal C 347, 29.12.1984
	Amended proposal COM(87) 315 final	Official Journal C 125, 11.5.1987
	European Parliament opinion Economic and Social Committee opinion	Official Journal C 218, 29.8.1985

3. VALUE-ADDED TAX

3.7. Refunds to non-EEC taxable persons (13th VAT Directive)

(1) Objective

To harmonize further Member State legislation concerning VAT refunds to taxable persons outside the EEC. This will develop harmonious trade relations with non-EEC countries and prevent certain forms of tax evasion and avoidance.

(2) Community measure

Thirteenth Council Directive 86/560/EEC of 17 November 1986 on the harmonization of the laws of the Member States relating to turnover tax arrangements for the refund of value-added tax to taxable persons not established in Community territory.

(3) Contents

1. A taxable person not established in the territory of the Community is defined as someone who has not had a business address, or a permanent place of residence in a Member State during a period of time to be determined by the Member State, and has not supplied any goods or services in that Member State with the exception of transport services or on which tax is payable by the customer alone.
2. In general, Member States will refund any VAT paid by a non-resident taxable individual on goods or services supplied by a taxable individual in the territory of the Community. Such refunds may be made conditional on third countries agreeing to take comparable measures (reciprocating).
3. Refunds have to be applied for by the taxable non-resident. Member States will determine the practical arrangements for claiming these refunds, e.g. time-limits, minimum amounts, etc. They may also require the appointment of a tax representative. They will take all necessary steps to prevent fraud.
4. These refunds must not be made on more favourable conditions than those made to taxable persons established in the EEC.
5. Eligibility for refunds will be determined according to the domestic rules of the Member States for VAT deductions, although certain expenditures may be excluded or certain conditions imposed.

(4) Deadline for implementing Member State legislation

1.1.1988

(5) Date of entry into force (if different from 4)

(6) Reference

Official Journal L 326, 21.11.1986

(7) Follow-up work

(8) Commission implementing measure



3. VALUE-ADDED TAX

3.8. Temporary importation of goods (17th VAT Directive)

(1) Objective

To reduce tax barriers to the movement of goods within the Community by introducing the widest possible exemption from value-added tax for goods temporarily imported from one Member State to another. To achieve maximum uniformity between exemption arrangements for customs duty and value-added tax in the case of imports from third countries.

(2) Community measure

Seventeenth Council Directive 85/362/EEC of 16 July 1985 on the harmonization of the laws of the Member States relating to turnover taxes — Exemption from value-added tax on the temporary importation of goods other than means of transport.

(3) Contents

1. Goods temporarily imported into one Member State from another shall be VAT-exempt provided they:

- are intended to be re-exported without alteration;
- are in free circulation;
- have been acquired in the Member State of exportation subject to the rules governing the application of VAT, with VAT not having been refunded on export;
- belong to someone resident outside the Member State into which they have been imported;
- are not consumable goods.

This Directive does not apply to means of transport, containers or pallets.

2. The following are examples of goods which shall be exempt from VAT when they are temporarily imported into the Community from a third country: professional equipment; commercial samples; goods used for display at exhibitions, fairs, etc; teaching aids; scientific equipment; medical, surgical and laboratory equipment; holders for goods; travellers' personal effects.

3. Goods temporarily imported from one Member State into another which do not fulfil the conditions at point 3.1 may qualify for one of the exemptions at point 3.2 provided they are not goods in free circulation which, firstly, were not acquired in accordance with the rules governing the application of VAT in the Member State of exportation or, by virtue of being exported, benefited from exemption from VAT and, secondly, were imported by a non-taxable person not entitled to deduct tax in full.

4. In some cases security may be required for goods that are granted VAT exemption on temporary importation. If it is required it must not be greater than the amount of VAT that would be due if the goods had been declared for home use when they were imported. It may be in the form of cash or a guarantee.

5. Member States will fix a time-limit for the period that goods granted VAT exemption on temporary importation may remain in their territory. The maximum period will normally be 24 months but reasonable extensions may be granted in exceptional circumstances.

6. The benefits of VAT exemption on temporary importation cease when the goods are: re-exported; destroyed as a result of unforeseeable circumstances; declared for home use. In the latter case VAT becomes payable. For certain special cases the temporary

importation can be terminated and the goods can remain without payment of tax.

7. In some cases, goods imported for possible sale may be granted a temporary importation VAT exemption. These include: second-hand goods imported with a possibility of auction; works of art for exhibitions and possible sale and goods imported under a contract of sale but subject to acceptance tests.

(4) Deadline for implementing Member State legislation

1.1.1986. The Federal Republic of Germany and Greece were allowed to delay implementation of certain provisions until 1 January 1987 and 1 January 1989 respectively.

(5) Date of entry into force (if different from 4)

(6) Reference

Official Journal L 192, 24.7.1985

(7) Follow-up work

Commission Directive 90/237/EEC of 4 May 1990 amending the 17th Council Directive 85/362/EEC of 16 July 1985 on the harmonization of the laws of the Member States relating to turnover taxes — Exemption from value-added tax on the temporary importation of goods other than means of transport (Official Journal L 133, 24.5.1990).
This Directive amends Directive 85/362/EEC following the entry into force of the Combined Nomenclature on 1 January 1988.

(8) Commission implementing measure



3. VALUE-ADDED TAX

3.9. Stores of vessels, aircraft and international trains

<i>(1) Objective</i>	Introduction of a specific Community procedure for the application of VAT and excise duties to stores for vessels, aircraft and trains engaged in international traffic.	
<i>(2) Proposal</i>	Proposal for a Council Directive on the Community value-added tax and excise duty procedure applicable to the stores of vessels, aircraft and international trains.	
<i>(3) Contents</i>	<ol style="list-style-type: none"> 1. Definition of 'stores'. 2. Stores are to be exempt from VAT and excise duties on imports until the final destination is reached. 3. Specific rules for stores of international trains, e.g. no exemption for tobacco and alcoholic beverages other than beer and wine. 4. Exemptions from the rules to the extent necessary to prevent fraud and abuse. 	
<i>(4) Opinion of the European Parliament</i>	Parliament approved the proposal but requested that the stores of vessels and aircraft of the armed forces and of private vessels and aircraft be excluded from the scope of the Directive.	
<i>(5) Current status</i>	The proposal is before the Council for adoption.	
<i>(6) Reference</i>	Commission proposal COM(79) 794 final	Official Journal C 31, 8.2.1980
	European Parliament opinion	Official Journal C 147, 16.6.1980
	Economic and Social Committee opinion	Official Journal C 205, 11.8.1980

3. VALUE-ADDED TAX

3.10. Special arrangements applicable to second-hand goods, works of art, antiques and collectors' items (proposal for a seventh VAT Directive)

(1) Objective

To supplement the common system of VAT with Community definition of the specific definitive arrangements applicable to the resale of second-hand goods, works of art, antiques and collectors' items, as defined for the purposes of the Directive. (Precious metals and stones are not covered by this Directive except where their value represents less than 50% of the selling price of the objects of which they form part). These arrangements are special in that they are substituted for the normal VAT scheme in order to eliminate the double taxation which, in the absence of specific provisions, occurs when such goods, after attracting non-deductible VAT at the final consumption stage, are resold by a dealer who must charge tax again (particularly where goods purchased from private individuals are resold in the course of business). Furthermore, the introduction of harmonized special arrangements in this area should make it possible to close a legal gap which has existed since 1977 and to create conditions conducive to establishment of the internal market.

(2) Proposal

Proposal for a Council Directive supplementing the common system of value-added tax and amending Articles 32 and 38 of Directive 77/388/EEC (Sixth VAT Directive) — Special arrangements for second-hand goods, works of art, antiques and collectors' items.

(3) Contents

1. The taxable amount in respect of each transaction is the margin of the dealer wishing to resell, i.e. the value which he adds to the goods in question on reselling them. This margin is defined as the difference between the selling price, exclusive of VAT, charged by the taxable person wishing to resell and the purchase price, inclusive of tax, which he paid for the goods. In such a case, the taxable person wishing to resell no longer has the right to deduct input tax under the conditions provided for by the normal VAT scheme. Such right will, in fact, be taken into account automatically by taxing the margin alone, instead of the total selling price.
2. Provision is made for the treatment of intra-Community transactions involving goods covered by the Directive to apply both before and after the abolition of tax frontiers: the Member State of departure will tax the margin earned on consignments to another Member State while the Member State of destination will exempt goods brought into its territory by a taxable person from that Member State wishing to resell.
3. Transactions with third countries will qualify for remission of tax on importation. However, in order to promote the conservation and enrichment of the Community's cultural heritage, certain goods of cultural interest will be liable to tax on exportation to third countries, with the margin still serving as the taxable amount.

(4) Opinion of the European Parliament

Parliament approved the proposal subject to certain amendments currently before the Commission.

(5) Current status

Since the principle of taxing the margin has been approved by Parliament, the Commission will present an amended proposal only if it considers that certain amendments are likely to be accepted.



(6) Reference

Commission proposal
COM(88) 846 final
European Parliament opinion
Economic and Social
Committee opinion

Official Journal C 76, 28.3.1989

Official Journal C 323, 27.12.1989

Official Journal C 201, 7.8.1989

3. VALUE-ADDED TAX

3.11. Transitional taxation arrangements

(1) Objective

To promote the abolition of intra-Community tax frontiers through the introduction of a transitional period of taxation in the Member State of destination of the goods.

(2) Proposal

Proposal for amending the proposal for a Council Directive supplementing the common system of value-added tax and amending Directive 77/388/EEC — Transitional arrangements for taxation with a view to the establishment of the internal market.

(3) Contents

1. The purpose of the Commission proposal is twofold:
— firstly, it sets out, for the period from 1 January 1993 to 31 December 1996, transitional VAT arrangements under which all tax checks and formalities at intra-Community frontiers would be abolished and payment of VAT would be maintained temporarily in the country of destination alone;
— secondly, it establishes the principle of payment of VAT in the Member State in which goods originate as from the end of the transitional period, i.e. from 1 January 1997.
The proposal abolishes, as from 1 January 1993, the concept of importation in intra-Community trade.

2. Intra-Community transactions between taxable persons (enterprises) will benefit, in the Member State of departure, from the exemption currently applied to supplies for export. This exemption will also apply to supplies of services directly linked to the exempt supplies previously defined (transport, ancillary services, etc.). The corresponding acquisition (including related supplies of services) will be subject to VAT in the Member State of destination, with the tax being payable by the person acquiring the goods. The burdens on firms involved in trade between Member States will therefore be alleviated, since they will pay the VAT due in respect of an intra-Community transaction on the basis of their regular VAT returns, as in the case of domestic transactions.

3. In order to limit the main risks of distortion of competition linked to differences in rates between Member States, the Commission proposal provides for three special sets of arrangements to be introduced for certain types of transaction:

- the purchases of institutional non-taxable persons (public administrations) and exempt taxable persons (banks, insurance companies, etc.) will be subject to the same tax mechanism in the country of destination as that applicable to transactions between taxable persons where their purchases exceed ECU 35 000 a year (this threshold will increase to ECU 70 000 on 1 January 1995);
- purchases of new private vehicles (cars and motor cycles) will be taxed in the Member State in which they are registered, whoever the purchaser is;
- mail-order sales will be taxed in the Member State of destination where the seller has an annual turnover of intra-Community mail-order sales of more than ECU 1 million. The arrangements principally cover mail-order sales to private individuals.



4. Travellers will no longer be subject to any restrictions as regards purchases of goods on which tax is paid on a once-and-for-all basis in the Member State of purchase and they will be free to use goods purchased in the course of their travels in any other Member State.

5. The taxation arrangements for intra-Community transactions between taxable persons or persons ranking as such will be governed by the following rules:

- exemption of supply in the country of departure presupposes that the following two conditions are met, since frontier formalities and checks will have been abolished:
 - the person acquiring the goods being a taxable person or a person ranking as such, it is for him to provide evidence of his VAT status, if necessary by means of a statement to that effect issued by the authorities in the Member State in which he is registered;
 - the goods are dispatched or transported to another Member State, with the onus of furnishing proof of their removal from the country of departure falling on the seller, if necessary by means of documents provided by the trader for whose account the transport operation is carried out.
- the corresponding acquisition will give rise to taxation in the country of destination, and the tax will be payable by the person acquiring the goods. The acquisition operation is defined as the process of acquiring the right to dispose of tangible property as owner. The Commission proposal sets out all the arrangements for taxing this new taxable transaction. Checks on the taxation of acquisitions of intra-Community origin are based on the commercial documents usually issued or received by traders: order forms, transport documents, delivery notes, sales and acquisition contracts, invoices and settlements of account. Furthermore, in order to facilitate administrative cooperation and mutual assistance, invoices must explicitly give the VAT numbers of the seller and the person acquiring the goods.

6. The Commission's proposals provide for equivalent treatment as between intra-Community and domestic transactions as regards the obligations of persons liable to pay tax and the checks to which they are subject.

7. In addition, the burdens on small and medium-sized firms are to be eased. Similarly, the VAT treatment of transactions of such firms are to be made more flexible.

To this end, the benefit of the exemption arrangements applicable to small and medium-sized firms' domestic transactions is to be extended to such intra-Community supplies as they may carry out: thus, supplies effected by small and medium-sized firms will not give rise to an acquisition in the Member State of destination of the goods.

8. With regard to purchases made by small and medium-sized firms, such transactions will be subject to tax in the Member State of departure of the goods provided that they do not exceed the thresholds laid down in connection with the special arrangements applicable to purchases by exempt taxable persons (ECU 35 000 or ECU 70 000).

(4) Opinion of the European Parliament

Parliament approved the Commission's proposal with certain amendments. The Commission accepted some of these amendments.

(5) Current status

The amended proposal including the amendments of Parliament held back by the Commission is awaited.

(6) Reference

Commission proposal
COM(87) 322 final
Amended proposal
COM(90) 182 final
European Parliament opinion
Economic and Social
Committee opinion

Official Journal C 252, 22.9.1987

Official Journal C 176, 17.7.1990

Not yet published

Official Journal C 237, 12.9.1988



3. VALUE-ADDED TAX

3.12. Administrative cooperation in the field of indirect taxation

(1) <i>Objective</i>	To create, by means of a system of administrative cooperation between supervisory authorities, a framework within which intra-Community transactions will be subject to controls identical to those to which domestic transactions are subject in the Member States.
(2) <i>Proposal</i>	Proposal for a Council Regulation concerning administrative cooperation in the field of indirect taxation (VAT and excise duties).
(3) <i>Contents</i>	<p>Legal basis: Article 100a of the Treaty.</p> <ol style="list-style-type: none"> 1. The proposal provides for each Member State to designate the authority or authorities which will be responsible for administrative cooperation within its territory and to transmit a list of those authorities to the other Member States and the Commission. The authorities so designated will nominate a central office with principal responsibility for liaison with other Member States. 2. The proposal stipulates that the competent authorities will exchange between themselves any information that is relevant to the assessment and collection of indirect taxes. They must also communicate any specific or general information to the Commission when this may be of particular interest at Community level. 3. In the case of an application for assistance, necessary information or documents must be provided in all cases where the judicial authority, which must be consulted to that effect, gives its consent. 4. The proposal provides for three broad categories of administrative cooperation: <ul style="list-style-type: none"> — assistance on request, where the initiative lies with the applicant authority. General obligation on all competent authorities to communicate information when requested to do so. Obligation on the requested authority to carry out inquiries on behalf of another Member State. Provision enabling Member States to organize coordinated tax checks, each on its own territory; — automatic assistance, where both applicant and requested authorities agree in advance to collect and exchange certain types of information automatically; — spontaneous assistance, where one authority takes the initiative without being requested to do so. Spontaneous exchange of information frequently proves to be very useful in fraud control. 5. The proposal provides for the competent authorities to take the necessary measures to ensure that they meet their obligation to provide information. Requested information will be furnished within a maximum of three months, unless the applicant authority itself proposes a longer period. The competent authority is required to keep its interlocutor informed of any obstacles that might prevent it from furnishing the requested information on time. 6. The proposal provides for the possibility of contacts between authorized officials of the applicant and requested authorities, which would take place in the latter's offices. The official from the applicant authority is to be given full access to whatever documentation the staff of the requested authority have available to them. However, the

proposal contains provisions regarding the confidentiality of the information exchanged as a result of the administrative cooperation.

7. The proposal provides for consultation and coordination procedures. It should be noted that it proposes the organization of centralized meetings at which practical problems of general concern can be discussed and operating procedures can be agreed.

8. The proposal provides for Member States to inform the Commission of any arrangements for administrative cooperation in the field of indirect taxation agreed with third countries.

9. This regulation would come into force on 1 January 1992. The intervening period between then and the abolition of tax frontiers at the end of 1992 should enable the practical control procedures to be agreed while the support provided by border controls is still available.

(4) Opinion of the European Parliament

First reading: Parliament approved the Commission's proposal with certain amendments. The Commission accepted some of these amendments.

(5) Current status

An amended proposal including Parliament's amendments held back by the Commission is awaited.

(6) Reference

Commission proposal COM(90) 183 final	Official Journal C 187, 27.7.1990
European Parliament opinion	Not yet published
First reading	
Economic and Social Committee opinion	Not yet published in the Official Journal



4. EXCISE DUTIES

Current problems and 1992 objectives

The harmonization of excise duties goes back a long time, and two separate series of proposals have been made over the years. The series on structures is covered in the earlier part of this section (summaries 4.1 — 4.5) and the series on rates in the later part (summaries 4.6 — 4.8).

It is important to be clear about this distinction, since proposals covering similar topics (e.g. excise duty on wine) occur in both series.

On 19 September 1990, the Commission completed the general framework for creating the single market in the field of taxation, i.e. for abolishing all tax controls at Community frontiers from 1 January 1993. It adopted four new proposals for Directives, three of which round off the series of measures proposed in 1989 on the approximation of excise duties. Those proposals are not concerned with rate levels but with the following:

- general arrangements for the movement and control of products subject to excise duty after 1992;
- harmonized rules on structures.

The Council (Economic and Financial Affairs) reached an agreement on these new options at its meeting of 17 December 1990.

The proposal on general arrangements lays down the definitive scheme for excise duties. Unlike in the case of VAT, no transitional period is envisaged. The proposal provides for goods to move between warehousekeepers under duty-suspension arrangements in accordance with the procedure for the interconnection of warehouses (summary 4.1).

As regards structures, three Directives have been proposed concerning the structures of excise duties on alcoholic beverages, manufactured tobacco and mineral oils. They replace earlier proposals some of which have been before the Council since 1972. They are aimed at clarifying the definition of taxed products in order to ensure a uniform basis of assessment for taxation and to define the exemptions applicable (summaries 4.2 — 4.4).

The first proposals on rates dates back to 1987. As part of this series, proposals have already been tabled covering the rates of taxation on alcoholic drinks, cigarettes, tobacco and mineral oils (summaries 4.6, 4.7 and 4.8).

The wide differences in rates between Member States make it difficult to achieve their complete harmonization by 1992. In its communication to the Council and the European Parliament of 14 June 1989 (COM(89) 260), the Commission indicated that it was going to be more flexible in its efforts to bring excise duties closer together, taking account of the very different emphasis given to the taxation of these products in Member States, some of which were themselves producers.

This approach must be consistent with the requirements of the Single European Act and must under no circumstances undermine the basic principle of the abolition of customs and tax frontiers by 1 January 1993. It is reflected in the proposal that minimum rates be introduced for all products subject to excise duty, except for certain oil products for which the Commission is proposing ranges of rates in order to prevent distortions of competition.

Following its Decision of 25 October 1989, the Commission amended its proposals concerning the excise duty rates on cigarettes, tobacco, mineral oils and beverages. In practice, these minimum rates or ranges will have to be applied by all Member States as from 1 January 1993.

After that date, this initial flexibility will ultimately have to lead to a movement in rates towards reference levels, termed 'target rates', in accordance with the internal market objectives.

These target rates, which are not compulsory common rates, will involve Member States in a long-term process of convergence; at Community level, they will have to be compatible with public health, transport and energy policies and with environmental requirements.

In the case of spirits and tobacco, the single rates proposed in 1987 have been replaced by minimum rates, which are at a lower level, and by target rates at a higher level. These target rates are consistent with the need to protect health.

Similarly, encouragement will be given to the increased use of unleaded motor fuels; these rates meet environmental requirements. The rate ranges proposed for diesel, heavy industrial fuel and domestic heating oil are consistent with the harmonization objectives of the common industrial and transport policies.

Control measures will be taken within Member States to prevent fraud and to ensure the removal of all frontier tax controls by the end of 1992. In this way, individuals should be able to purchase products wherever they wish and transport them freely, provided that no commercial transactions are involved.

However, provision has been made for a review of the minimum rates and target rates every two years, starting on 31 December 1994, so as to adapt them to any changes in tax, health, energy, transport and environmental policies after 1992.

Every two years, the levels of the various rates (minimum rates, ranges and target rates) will be examined by the Council on the basis of a report from the Commission. The Council will decide on any adjustments to be made to these rates in the light of Community policy in the various fields (transport, energy, environment).

Independently of such adjustments, the Council, acting on a proposal from the Commission, will index the various rates every two years so as to maintain their real value.

As technical implementing measures may be required after these Directives have been adopted, a proposal was presented in 1972 on the setting-up of a Committee on Excise Duties, which would play an important role in a simple and accelerated decision-making procedure.



4. EXCISE DUTIES

4.1. Harmonization of duty structures: general arrangements for products subject to excise duty and the holding and movement of such products

- | | |
|----------------------|---|
| (1) <i>Objective</i> | To define the arrangements for the holding and movement of products subject to excise duty in order to create the condition required for abolishing tax frontiers with a view to establishing the internal market. |
| (2) <i>Proposal</i> | Proposal for a Council Directive on the general arrangements for products subject to excise duty and on the holding and movement of such products. |
| (3) <i>Contents</i> | <ol style="list-style-type: none"> 1. The proposal for a Directive lays down the geographical framework for the holding and movement of products subject to excise duty in order to ensure uniform application of its provisions and of the provisions of the Directives on excise-duty rates and structures. 2. 'Products subject to excise duty' means mineral oils, alcoholic beverages and manufactured tobacco. 3. Member States will retain the right to introduce or maintain taxes levied on other specific products provided that they do not hinder the free movement of goods or result in the maintenance of tax frontiers. 4. The Directive defines the Community concept of 'chargeable event'. The chargeable event is production on the territory of the Community or importation on to that territory from third countries. Excise duty will become chargeable when any taxable product is released for consumption. 5. The Directive lays down that, when products subject to excise duty sold or acquired for the purposes of a business, a body governed by public law or activities in the public interest or are sold by mail order, the excise duty will be payable in the country in which the products are consumed. 6. Each Member State will define its own rules on the production and holding of products subject to excise duty. Where the duty has not been paid, the production and holding of products will be subject to controls carried out under the tax-warehousing system. 7. Warehousekeepers approved by the competent authorities of a Member State will be deemed to be authorized to carry out both national and intra-Community operations. 8. Authorized warehousekeepers will be obliged: <ul style="list-style-type: none"> — to furnish a guarantee; — to comply with the requirements laid down in respect of warehouses; — to consent to any supervision or controls; — to keep stock records. 9. Any product subject to excise duty under the duty-suspension arrangements between the territories of different Member States will be accompanied by either an administrative or a commercial document. This document will be drawn up by the warehousekeeper and transferred between warehousekeepers. 10. Member States may require that products released for consumption or sold on their territory carry national or tax identification marks. 11. The Directive provides for two separate reimbursement procedures in order to avoid double taxation resulting from products being released for consumption twice in two different Member States. The |

first will allow any consignor to place or re-place products under duty-suspension arrangements, thereby permitting reimbursement in the first Member State before payment is made in the second. The second procedure provides for reimbursement after payment in the other Member State.

12. Member States will lay down the conditions for reimbursing excise duty. However, the period involved must be the same in all cases in order to avoid any discrimination.

13. The Directive provides for exemptions deriving from international agreements concluded by Member States.

14. It also provides for the setting-up of a Committee on Excise Duties which will be responsible for the implementation of the Directives on manufactured tobacco, alcoholic beverages and mineral oils.

15. Annexes contain the model of an administrative document and an explanatory memorandum on the use of the commercial document.

(4) Opinion of the European Parliament

Not yet given.

(5) Current status

Parliament and the Economic and Social Committee are currently preparing their opinions on the proposal.

(6) Reference

Commission proposal
COM(90) 431 final

Official Journal C 322, 21.12.1990



4. EXCISE DUTIES

4.2. Harmonization of duty structures: alcoholic beverages and alcohol contained in other products

N.B.: This proposal replaces three 1972 proposals (COM(72) 225 II/III/IV final) and a 1985 proposal (COM(85) 151 final), which are to be withdrawn.

- (1) *Objective* To guarantee uniform categorization of identical products throughout the Community; to introduce harmonized structures for excise duties on alcoholic beverages and alcohol contained in other products.
- (2) *Proposal* Proposal for a Council Directive on the harmonization of the structures of excise duties on alcoholic beverages and on the alcohol contained in other products.
- (3) *Contents*
1. Definition of the terms 'beer', 'still wine', 'sparkling wine', 'intermediate products' and 'alcohol and alcoholic beverages'.
 2. The excise duty levied on beer will be fixed by reference to the number of hectolitre degrees of finished product released for consumption or recorded as missing and exceeding any allowance granted.
 3. Member States may divide beers into categories consisting of no more than 4 degrees Plato and may charge the same rate of duty per hectolitre on all beers falling within each category.
 4. Member States may apply a single reduced rate of excise duty to beer brewed by independent small undertakings provided that the reduced rate:
 - is not applied to undertakings producing more than 60 000 hl of beer per year;
 - is not more than 20% below the standard national rate of excise duty;
 - is not below the level of the minimum rate laid down in the proposal for a Directive on the harmonization of rates (COM(89) 527 final — see summaries 4.6, 4.7 and 4.8).
 5. Reduced rates introduced by Member States must apply equally and in a straightforward manner to beer delivered into their territory from small breweries situated in other Member States.
 6. Where beer produced in another Member State or beer from other Member States is withdrawn from the market because its condition or age renders it unfit for human consumption, any excise duty paid may be refunded.
 7. The excise duty levied on still wine and sparkling wine and on intermediate products will be fixed by reference to the number of hectolitres of finished product released for consumption or recorded as missing and exceeding any allowance granted.
 8. Member States will be required to levy the same rate of excise duty on all products subject to duty on still wine, sparkling wine, intermediate products, alcohol and alcoholic beverages.
 9. Member States may apply a single reduced rate of duty on still wines and sparkling wines of a low alcoholic strength. This rate may not be more than 50% below the standard national rate of excise duty and may not be below the minimum rate for the product concerned.
 10. The excise duty levied on alcohol and alcoholic beverages will be fixed per hectolitre or pure alcohol at 20 °C. This will be calculated by reference to the number of hectolitres of pure alcohol released for

consumption or recorded as missing and exceeding any allowance granted.

11. The products covered by this proposal will be exempt from excise duty where they:

- consist of alcoholic beverages of an actual alcoholic strength by volume not exceeding 1.2%;
- are denatured in accordance with the requirements of any Member State;
- are denatured and used for the manufacture of perfumes, toiletries and cosmetics or for external medical use;
- are used for the production of vinegar or medicines.

12. The proposal provides for the mutual recognition of denaturing formulae and sets up a system for exchanging the requisite information.

(4) Opinion of the European Parliament

Not yet given.

(5) Current status

Parliament and the Economic and Social Committee are currently preparing their opinions on the proposal.

(6) Reference

Commission proposal
COM(90) 432 final

Official Journal C 322, 21.12.1990



4. EXCISE DUTIES

4.3. Harmonization of duty structures: manufactured tobacco

<i>(1) Objective</i>	To introduce a harmonized structure for excise duties on manufactured tobacco in order to ensure establishment of the internal market.		
<i>(2) Proposal</i>	Proposal for a Council Directive amending Council Directives 72/464/EEC and 79/32/EEC on taxes other than turnover taxes which are levied on the consumption of manufactured tobacco.		
<i>(3) Contents</i>	<p>1. The following are considered as manufactured tobacco: cigarettes, cigars and cigarillos, smoking tobacco, snuff and chewing tobacco.</p> <p>2. Cigarettes manufactured within the Community and those imported from third countries will be subject to a proportional excise duty based on the maximum retail selling price and to a specific excise duty calculated per unit of the product.</p> <p>3. Manufacturers and importers within the Community will lay down the maximum retail selling price for each of their products for each Member State in which they are to be released for consumption.</p> <p>4. Member States may fix a scale of retail selling prices for each category of manufactured tobacco. Each scale will be valid for all products in the relevant category and must be sufficiently varied to correspond to the actual variety of Community products.</p> <p>5. The following will be exempt from excise duty:</p> <ul style="list-style-type: none"> — denature tobacco which is used for industrial or horticultural purposes or is destroyed under administrative supervision; — manufactured tobacco which is intended solely for scientific tests connected with the determination of tar and/or nicotine levels. <p>6. Definitions of manufactured tobacco are already given in Council Directive 79/32/EEC.</p>		
<i>(4) Opinion of the European Parliament</i>	Not yet given.		
<i>(5) Current status</i>	Parliament and the Economic and Social Committee are currently preparing their opinions on the proposal.		
<i>(6) Reference</i>	<table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Commission proposal COM(90) 433 final</td> <td style="width: 50%;">Official Journal C 322, 21.12.1990</td> </tr> </table>	Commission proposal COM(90) 433 final	Official Journal C 322, 21.12.1990
Commission proposal COM(90) 433 final	Official Journal C 322, 21.12.1990		

4. EXCISE DUTIES

4.4. Harmonization of duty structures: mineral oils

N.B.: This proposal replaces that of 1975 (COM(73) 184 final), which will be withdrawn.

<i>(1) Objective</i>	To introduce a harmonized structure on mineral oils in order to ensure establishment of the internal market.	
<i>(2) Proposal</i>	Proposal for a Council Directive on the harmonization of the structures of excise duties on mineral oils.	
<i>(3) Contents</i>	<ol style="list-style-type: none">1. Definition of the term 'mineral oil'.2. Mineral oils will be subject to excise duty if used or intended for use as fuel or road fuel.3. Any product similar in nature to mineral oils and intended for use as motor fuel or as an additive or extender in motor fuels will also be taxed as motor fuel.4. Excise duty is calculated per:<ul style="list-style-type: none">— 1 000 litres of product at a temperature of 15°C in the case of mineral oils;— 1 000 kg of product in the case of products intended for use as heavy fuel oils.5. The proposal lays down that the consumption of mineral oils in an establishment producing mineral oils will not give rise to excise duty except when such consumption is for the propulsion of motor vehicles or for purposes not related to the production of mineral oils.6. Definition of the term 'establishment producing mineral oils'.7. Member States will not be obliged to treat as 'production of mineral oils' operations:<ul style="list-style-type: none">— during which small quantities of mineral oils are obtained;— carried out for the purpose of enabling a mineral oil to be re-used in the same establishment;— consisting in mixing mineral oils with other mineral oils or materials.8. The following will be exempt from excise duty:<ul style="list-style-type: none">— oils used for purposes other than as motor fuels or heating fuels;— oils used as fuel for railway vehicles running on public railway networks;— gases used other than as motor fuels;— oils used as fuels for the purpose of:<ul style="list-style-type: none">— air navigation other than private pleasure flights;— navigation on inland waterways and within the Community waters (including fishing) other than for use in private pleasure craft.9. Provision is made for establishing a coordinated system to facilitate the movement and control of coloured and marked hydrocarbons.	
<i>(4) Opinion of the European Parliament</i>	Not yet given.	
<i>(5) Current status</i>	Parliament and the Economic and Social Committee are currently preparing their opinions on the proposal.	
<i>(6) Reference</i>	Commission proposal COM(90) 434 final	Official Journal C 322, 21.12.1990



4. EXCISE DUTIES

4.5. Harmonization of duty structures: rum from French overseas departments

<i>(1) Objective</i>	To permit the French Republic, for a limited period of time, to apply a reduced rate of tax to traditional rum from the French overseas departments because of their economic and social situation.
<i>(2) Community measure</i>	Council Decision 88/245/EEC of 19 April 1988 authorizing the French Republic to apply in its overseas departments and in metropolitan France, by way of derogation from Article 95 of the Treaty, a reduced rate of the revenue duty imposed on the consumption of traditional rum produced in those departments.
<i>(3) Contents</i>	<ol style="list-style-type: none"> 1. Authorization for the French Republic to apply a reduced rate of duty to traditional rum from the overseas departments until 31 December 1992. 2. Definition of 'traditional rum' eligible for the reduction. This is the product obtained exclusively by distillation after fermentation of sugar-cane juice, sugar-cane syrup or sugar-cane molasses in the sugar-cane producing areas of the French overseas departments. 3. Reduction of the annual quotas (1988 to 1992) for the rum benefiting from the reduced rate.
<i>(4) Deadline for implementing Member State legislation</i>	
<i>(5) Date of entry into force (if different from 4)</i>	
<i>(6) Reference</i>	Official Journal L 106, 27.4.1988
<i>(7) Follow-up work</i>	
<i>(8) Commission implementing measure</i>	

4. EXCISE DUTIES

4.6. Harmonization of excise duty rates: alcohol and alcoholic beverages

<i>(1) Objective</i>	To set minimum rates to be applied no later than 31 December 1992.	
<i>(2) Proposal</i>	Proposal for a Council Directive amending the proposal for a Directive (COM(87) 328) on approximation of the rates of excise duty on alcohol contained in other products.	
<i>(3) Contents</i>	<p>1. The shift to flexibility in the excise duty rates levied on beer, still wine, sparkling wine, potable alcohol and intermediate products involves setting the following rates:</p> <ul style="list-style-type: none">— On 1 January 1993, excise duty rates in the Member States may not be lower than the minimum rate of:<ul style="list-style-type: none">— ECU 0.748 per hl/degree Plato for beer,— ECU 9.35 per hl for still wine,— ECU 16.5 per hl for sparkling wine,— ECU 1 118.5 per hl of pure alcohol for potable alcohol,— ECU 74.8 per hl for intermediate products.— Ultimately, Member States will have to apply the target rate of:<ul style="list-style-type: none">— ECU 1.496 per hl/degree Plato for beer,— ECU 18.7 per hl for still wine,— ECU 33 per hl for sparkling wine,— ECU 1 398.1 per hl of pure alcohol for potable alcohol,— ECU 93.5 per hl for intermediate products. <p>2. In the case of alcohol contained in perfume, toiletries and cosmetics, the original proposal envisaged a reduced rate. The difficulties in defining common rules on denaturing and the low level of revenue generated by this type of product have led the Commission to drop its original proposal.</p> <p>3. Every two years, and for the first time not later than 31 December 1994, the target and minimum rates are to be reviewed and any necessary adjustments made.</p> <p>4. With effect from 1 January 1993, Member States may adjust their excise duty rates provided that they move closer to the target rates laid down in this Directive.</p>	
<i>(4) Opinion of the European Parliament</i>	Not yet given.	
<i>(5) Current status</i>	Parliament is currently preparing its opinion on the amended proposal.	
<i>(6) Reference</i>	Commission proposal COM(87) 328 final	Official Journal C 250, 18.9.1987
	Amended proposal COM(89) 527 final	Official Journal C 12, 18.1.1990
	Economic and Social Committee opinion	Official Journal C 237, 12.9.1988 Official Journal C 225, 10.9.1990



4. EXCISE DUTIES

4.7. Harmonization of excise duty rates: cigarettes and manufactured tobacco

(1) <i>Objective</i>	To lay down a common structure and the rates to be applied not later than 31 December 1992.
(2) <i>Proposal</i>	Proposals for Council Directives amending the proposals for Directives (COM(87) 325 and COM(87) 326) on the approximation of taxes on cigarettes and on the approximation of the taxes on manufactured tobacco other than cigarettes.
(3) <i>Contents</i>	<ol style="list-style-type: none"> 1. The Directives apply to cigarettes, cigars and cigarillos, smoking tobacco, snuff and chewing tobacco. 2. The taxation of cigarettes is characterized by a mixed excise-duty structure: <ul style="list-style-type: none"> — a fixed specific component (fixed amount per number of cigarettes); — a proportional component (<i>ad valorem</i>, as percentage of retail selling price inclusive of all taxes). 3. The rates fixed for cigars and cigarillos and for smoking tobacco, snuff and chewing tobacco have a purely <i>ad valorem</i> structure. However, there are special transitional arrangements for Member States which, on 1 January 1993, apply a taxation structure other than a purely <i>ad valorem</i> structure. 4. In order to permit certain Member States which, on 1 January 1993, apply a purely specific or mixed excise duty to certain categories of manufactured tobacco other than cigarettes to move gradually towards a purely <i>ad valorem</i> structure, they are to be allowed to apply to such categories a mixed structure (specific excise duty + <i>ad valorem</i> excise duty + VAT) during a period not exceeding five years on condition that the sum of the <i>ad valorem</i> components of this mixed structure is not lower than the minimum rates fixed for each product category. 5. The shift to flexibility in the rates levied on cigarettes involves the Member States setting the following rates on 1 January 1993: <ul style="list-style-type: none"> — specific component: its basic amount may not be lower than the minimum rate of ECU 15 per 1 000 cigarettes; — <i>ad valorem</i> component: this will be established in such a way that the combination of these rates with the rate of VAT may not be lower than the minimum rate of 45% of the retail selling price inclusive of all taxes. Ultimately, Member States will apply an excise duty with the following two target-rate components: <ul style="list-style-type: none"> — specific component: target rate of ECU 21.5 per 1 000 cigarettes; — <i>ad valorem</i> component: target rate fixed in such a way that the combination of this <i>ad valorem</i> component and the rate of VAT equals 54% of the retail selling price inclusive of all taxes. 6. The shift to flexibility in the rates levied on cigars and cigarillos, smoking tobacco, snuff and chewing tobacco involves the Member States setting a minimum <i>ad valorem</i> rate on 1 January 1993. The excise duty rate will be established in such a way that the total tax

burden resulting from the combination of this rate of VAT may not be lower than:

- 25% of the retail selling price inclusive of all taxes for cigars and cigarillos;
- 50% of the retail selling price inclusive of all taxes for smoking tobacco;
- 37% of the retail selling price inclusive of all taxes for snuff and chewing tobacco.

Ultimately, Member States will apply the target rate in such a way that the combination of this rate of VAT equals:

- 36% of the retail selling price inclusive of all taxes for cigars and cigarillos;
- 56% of the retail selling price inclusive of all taxes for smoking tobacco;
- 43% of the retail selling price inclusive of all taxes for snuff and chewing tobacco.

(4) Opinion of the European Parliament

Not yet given.

(5) Current status

Parliament is currently preparing its opinion on the amended proposal.

(6) Reference

Commission proposals COM(87) 325 final and COM(87) 326 final	Official Journal C 251, 19.9.1987
Amended proposal COM(89) 525 final	Official Journal C 12, 18.1.1990
Economic and Social Committee opinion	Official Journal C 237, 12.9.1988 Official Journal C 225, 10.9.1990



4. EXCISE DUTIES

4.8. Harmonization of excise duty rates: mineral oils

<i>(1) Objective</i>	To lay down minimum rates or rate bands for each product category, which Member States will have to apply by 31 December 1992 at the latest.	
<i>(2) Proposal</i>	Proposal for a Council Directive amending the proposal for a Directive (COM(87) 327) on the approximation of the rates of excise duty on mineral oils.	
<i>(3) Contents</i>	<p>1. Flexibility of excise duty rates for petrol (leaded or unleaded), diesel, heating gas oil, heavy fuel oil, liquid petroleum gas, methane and kerosene.</p> <p>2. The target rates are not laid down in the current proposal for a Directive. The Commission will present a proposal for a Directive to this effect by 31 December 1990.</p> <p>3. The rates to be applied on 1 January 1993 are as follows: (ECU/1 000 litres)</p> <ul style="list-style-type: none"> — leaded petrol: a minimum of ECU 337; — unleaded petrol: a differential compared with the rates on leaded petrol of not less than ECU 50; — diesel: not less than ECU 195 and not more than ECU 205; — heating oil: not less than ECU 47 and not more than ECU 53; — heavy fuel: not less than ECU 16 and not more than ECU 18; — liquid petroleum gas and methane used as fuel: a minimum of ECU 84.5; — kerosene used as fuel: a minimum of ECU 337; — kerosene: not less than ECU 47 and not more than ECU 53. 	
<i>(4) Opinion of the European Parliament</i>	Not yet given.	
<i>(5) Current status</i>	Parliament is currently preparing its opinion on the amended proposal.	
<i>(6) Reference</i>	Commission proposal COM(87) 327 final	Official Journal C 262, 1.10.1987
	Amended proposal COM(89) 526 final	Official Journal C 16, 23.1.1990
	Economic and Social Committee opinion	Official Journal C 237, 12.9.1988 Official Journal C 225, 10.9.1990

4. EXCISE DUTIES

4.9. Committee on excise duties

<i>(1) Objective</i>	To create a committee of Member State representatives so as to enable the Community to adopt by a simple and accelerated procedure purely technical measures required for the implementation of Directives on excise duties.								
<i>(2) Proposal</i>	Proposal for a Council Decision setting up a Committee on Excise Duties.								
<i>(3) Contents</i>	<ol style="list-style-type: none">1. The Committee shall be made up of representatives of the Member States and a representative of the Commission who will act as chairman.2. The principal task of the Committee will be to express opinions on draft measures for implementing Directives on the harmonization of excise duties. These drafts will be drawn up by the Commission and submitted to the Committee by the Commission's representative.3. The Committee expresses its opinion on the planned measures by a weighted majority vote. If the Commission agrees with that opinion it shall adopt the planned measures. If it does not agree, or if the Committee does not express an opinion, the Commission shall immediately submit a proposal to the Council. If the Council does not take a decision within three months, the Commission shall adopt the measures.4. The Committee can also examine any other questions concerning the application of excise duty harmonization Directives, at the request of the chairman or Member State representatives.								
<i>(4) Opinion of the European Parliament</i>	The European Parliament approved the proposition.								
<i>(5) Current status</i>	The proposal is before the Council for adoption.								
<i>(6) Reference</i>	<table><tr><td>Commission proposal</td><td>Official Journal C 43, 29.4.1972</td></tr><tr><td>COM(72) 225/VI final</td><td></td></tr><tr><td>European Parliament opinion</td><td>Official Journal C 48, 25.4.1974</td></tr><tr><td>Economic and Social Committee opinion</td><td>Official Journal C 36, 1.6.1973</td></tr></table>	Commission proposal	Official Journal C 43, 29.4.1972	COM(72) 225/VI final		European Parliament opinion	Official Journal C 48, 25.4.1974	Economic and Social Committee opinion	Official Journal C 36, 1.6.1973
Commission proposal	Official Journal C 43, 29.4.1972								
COM(72) 225/VI final									
European Parliament opinion	Official Journal C 48, 25.4.1974								
Economic and Social Committee opinion	Official Journal C 36, 1.6.1973								

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