

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(85) 342 final

Brussels, 27 June 1985

Recommendation for a

Council Decision

authorizing the Commission to participate on behalf of the
European Economic Community in the negotiations for a
Decision on International Tourism Policy to be
adopted by the Council of the OECD

(submitted to the Council by the Commission)

COM(85) 342 final

EXPLANATORY MEMORANDUM

At its meeting on 10-12 July 1985 the Tourism Committee of the Organisation for Economic Co-operation and Development (OECD) will be considering members' comments and reservations on a draft Decision of the OECD Council on International Tourism Policy which is due to be adopted by that body in September or October.

The aim of the draft Decision is to make things easier for tourists by updating existing duty-free and tax-free arrangements. These are currently governed inter alia by Decision C(68)32, C(65)40 final and Recommendation C(68)34, C(65)84, OECD instruments which the new Decision would replace.

Both institutional and technical factors are involved.

Institutional

The draft Decision prepared by the OECD Secretariat is formally an act of the OECD Council, which numbers among its members all the EEC Member States but not the Community itself.

The text is essentially concerned with customs matters which are now governed by Community legislation¹, and the Member States acting in their own capacity lack powers to commit the Community to changes in that legislation.

It is also in the Community's interests to be involved in the preparation of international rules for tourism, since the tourist trade is of such importance for Member States.

What is required is a formula which will bring the Community into the decision-making process and thus enable it to exercise its powers in this field.

The Commission therefore proposes that the Council empower it to transmit the following texts to the OECD Secretariat to be inserted in the draft OECD Decision:

(a) the following recital:

"Whereas, as regards the Member States of the European Economic Community, the matters covered by this Decision are essentially within the competence of the European Economic Community; whereas, in accordance with Additional Protocol 1 of the Convention regarding the Organization for Economic Co-operation and Development, the European Economic Community, represented by the Commission, has participated in the preparatory work leading to this decision; whereas the European Economic Community has agreed to this Decision."

¹ Regulation (EEC) No 018/83 setting up a Community system of reliefs from customs duty (OJ No L 105, 23.4.1983, p. 1), Regulation (EEC) No 3599/82 on temporary importation arrangements (OJ No L 376, 31.12.1982, p. 1).

(b) furthermore, a footnote (1) would be inserted after the words: "The Governments of Member countries", the text of the footnote to read as follows:

- 1) The Council of the European Communities has decided to confer on its Presidency, held at present by the Government of Luxembourg, the authority to act on behalf of the European Communities.

Technical

The Commission must ensure that the customs and tax provisions of the OECD draft decision¹ conform to Community objectives and policies, and if possible to the suggested amendments to the draft set out at point 3 of Annex I to this recommendation.

CONCLUSION

In the interests of efficiency and in line with the practice followed to date in negotiating the acceptance of international conventions, the Commission recommends that the Council adopt a decision authorizing it on behalf of the European Economic Community to conduct negotiations with a view to the adoption by the OECD of a Decision on International Tourism Policy.

¹ OECD/DAFFE/TOU/85.4, Scale F, 21.2.1985

Recommendation for a
Council Decision
authorizing the Commission to participate on behalf of the
European Economic Community in the negotiations for a
Decision on International Tourism Policy to be adopted
by the Council of the OECD

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the recommendation from the Commission,

Whereas the Tourism Committee of the Organisation for Economic Co-operation and Development (OECD) concluded at its meeting in Paris on 6-8 February that the OECD should adopt a new instrument to facilitate tourism in particular by updating current duty-free and temporary admission rules; whereas the Decision to be adopted would replace existing OECD Decisions; whereas this item is on the agenda for the meeting of the Tourism Committee to be held in Paris on 10-12 July; whereas it is planned to submit the final text of the Decision to the OECD Council in September or October;

Whereas the adoption of such a Decision by the OECD Council has a direct bearing on the competence of the European Economic Community and in particular on the application of the Common Customs Tariff and the tax reliefs laid down by Community law for travellers; whereas the Decision must take account of the specific requirements of the customs union, whereas it should therefore be negotiated by the Community,

HAS DECIDED AS FOLLOWS :

Sole Article

The Commission is hereby authorized to negotiate on behalf of the Community in the appropriate bodies of the Organization for Economic Cooperation and Development a Decision to replace earlier Decisions of the OECD and provide for an extension of the facilities for temporary admission free of import duties and duty-free importation to articles currently excluded.

The negotiations shall be conducted in accordance with the directives in Annex 1 and the procedure described in paragraphs 1, 2 and 3 of Annex 2.

Done at Brussels,

For the Council

The President

Negotiating Directives

1. The Commission must ensure that the tax and customs provisions of the draft OECD Decision¹ conform to the Community's objectives and policies, and if possible to the suggested amendments to the draft Decision met out in paragraph 3.

2. The Commission will transmit to the OECD Secretariat, with a view to their insertion into the draft OECD Decision, the following Recital (i) and footnote (ii):

"Whereas, as regards the Member States of the European Economic Community, the matters covered by this Decision are essentially within the competence of the European Economic Community; whereas, in accordance with Additional Protocol 1 of the Convention regarding the Organization for Economic Co-operation and Development, the European Economic Community, represented by the Commission, has participated in the preparatory work leading to this decision; whereas, the European Economic Community has agreed to this Decision".

(ii)"The Council of the European Communities has decided to confer on its Presidency, held at present by the Government of Luxembourg, the authority to act on behalf of the European Communities".

3. Declaration to be made to the OECD Council by the representative of the Commission of the European Communities when the draft Decision is adopted.

"By virtue of the Treaty of Rome the most important provisions of the draft Decision submitted for the Council's approval, in particular those concerning customs measures, fall, as regards the Member States of the European Economic Community, within the exclusive competence of the Community itself. If this Decision is to be effective in the Member States of the European Economic Community, therefore, the Community must be a party to its adoption.

The Council of the European Communities has decided to confer on its Presidency, held at present by the Government of Luxembourg, the authority to act on behalf of the European Communities.

¹ OECD DIRECTIVE ON TAX, Doc. No. 21 February, 1985.

To clarify the intervention of the European Economic Community in those areas proper to its competence, it was proposed to insert a recital and a footnote reflecting this situation in the text of the draft OECD Decision.

4. Suggested amendments to the draft Decision of the OECD Council

Annex I (a)

The last paragraph should read as follows :

"Temporary admission free of all import duties and taxes shall be granted without written declaration or authorization and without requiring any security, unless the customs authorities expressly request otherwise."

Annex I (b)

The title of (b) should read as follows :

"b) Importation free of import duties and taxes of items imported by non-resident travellers or by returning resident travellers"

Point iii) should read as follows :

"iii) other goods where their value or quantity is not much as to suggest that they are intended for any commercial purpose, up to units of account."

In the last paragraph of (b), "quantities" should be replaced by "limits".

Annex I (c)

The whole of (c) should read as follows :

"Member countries shall admit from other Member countries, free of import duties and taxes :

- i) material related to the promotion of tourism, as defined in Note 3 to this Decision and Recommendation, provided that it is intended for free distribution and does not contain more than 25 per cent of private commercial advertising;
- ii) tourism promotion material as defined in Note 4 to this Decision and Recommendation, intended for display in the offices of accredited national tourist agencies or for use in tourist promotional activities.

In the case of the material referred to at ii), the exemption may if necessary be replaced by authorisation for temporary admission free of all import duties and taxes. Such temporary admission shall be authorised for a period of at least two years, without requiring any security, unless the customs authorities expressly request otherwise".

Annex I (e)

The whole of (e) should read as follows :

"Member countries shall admit under the temporary admission procedure free of all import duties and taxes (or under any other customs procedure having similar effects) the following items where they are imported by enterprises established abroad for the requirements of their activities in the importing Member country :

- 1) spare parts, accessories and normal equipment for use with public passenger transport vehicles operating internationally which are themselves placed under the temporary admission procedure, where such parts, etc. are imported either at the same time or subsequently;

2) audiovisual equipment for the production of tourist promotion films.

If necessary, these articles may be subject to the provision of an appropriate permit and/or the giving of security to be redeemed upon re-exportation."

Notes and references : Note 1

The whole of Note 1 should read as follows :

"1. Throughout the body of this Decision and Recommendation and its Annexes :

- a) "traveller" means "any person who temporarily enters the territory of a Member country in which he or she does not normally reside (non-resident traveller), or who returns to the territory of the Member country in which he or she normally resides after having been abroad temporarily (resident traveller)";
- b) "tourist" means "any person entering the territory of a Member country other than the Member country in which he or she normally resides and remaining there for at least twenty-four hours for legitimate non-immigrant purposes such as touring, recreation, sport, health, family reasons, study, pilgrimages, business, missions or conventions."

Ad hoc procedure for the negotiation

Without prejudice to the legal positions of the Commission and the Member States :

1. Problems arising at the negotiation of customs conventions will be examined at coordination meetings chaired by a representative of the Member State holding the presidency of the Council (assisted by representatives of the General Secretariat) and bringing together representatives from the Member States and from the Commission. These meetings will deal with any matter relating to customs conventions, with the exception of questions of competence. They will aim at reaching a common position in line with the objectives and policies of the Community. Any major disagreement should be notified to the Permanent Representatives Committee and, if necessary, to the Council.
2. The common position will be stated by a single spokesman; the spokesman will normally be the Commission's representative, except where the nature of the matters dealt with is such that the Commission's representatives and the representatives of the Member States would arrive at different conclusions. The designation of a single spokesman does not prevent the Member States' representatives from making individual statements, provided that they pay due regard to the common line adopted on substantive and procedural questions.
3. If a vote is taken, the Member States' representatives will vote in accordance with the overall package of common guidelines adopted.