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Report

drawn up on behalf of the Committee on Budgets

on the proposal from the Commission of the European Communities to the Council (Doc. 144 /73) for a sixth directive on the harmonization of the legislations of the Member States concerning turnover taxes – common system af value added tax: uniform basis of assessment –

Rapporteur: Mr Harry NOTENBOOM

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EUROPEAN PARLIAMENT

MARCH 1974

CORRIGENDUM

NOTENBOOM Report - Doc. 360/73
SIXTH DIRECTIVE ON TURNOVER TAXES

Proposal for a directive

Article 25

The amended text of this article should read as follows:

'1. unchanged

2. unchanged

3. (a) Paragraph 1 (a) shall not apply to the transaction referred to in Article 4 (3) (b) and (c) nor to the transactions referred to in paragraph 2, second sub-paragraph of this article.

(b) However, at the taxable person's request, the provisions of paragraph 1 (a) (aa) shall apply to taxable persons who are only liable to value added tax for the letting of real property.

4. unchanged

5. unchanged.'

By letter of 25 July 1973 the President of the Council of the European Communities requested the European Parliament, pursuant to Article 100 of the EEC Treaty, to deliver an opinion on the proposal from the Commission of the European Communities to the Council for a sixth directive on the harmonization of the legislation of Member States concerning turnover taxes - common system of value added tax: uniform basis of assessment.

On 9 August 1973 the European Parliament referred this proposal to the Committee on Budgets as the committee responsible and the Committee on Economic and Monetary Affairs as the committee asked for its opinion, and also, on 18 January 1974 to the Committee on Agriculture for its opinion.

The Committee on Budgets appointed Mr Notenboom rapporteur on 13 September 1973. It considered this proposal at its meetings of 23 November 1973, 3 December 1973, 7 January 1974 and 4 February 1974. The sub-committee on tax harmonization considered the proposal at its meetings of 8, 22 and 29 October 1973, 5, 19 and 26 November 1973, 19 December 1973, 16 and 24 January 1974.

At its meeting of 4 February 1974 the Committee on Budgets unanimously adopted the motion for a resolution and the explanatory statement with one abstention.

The following were present: Mr Spénale, chairman; Mr Aigner, acting vice-chairman; Mr Notenboom, rapporteur; Mr Boano, Mr Fabbrini, Mr Leenhardt, Mr Müller, Mr Pêtre, Mr Pisoni, Mr Pounder, Sir Brandon Rhys-Williams and Mr Wohlfart.

C O N T E N T S

A

The Committee on Budgets hereby submits to the European Parliament the following motion for a resolution, together with explanatory statement:

MOTION FOR A RESOLUTION

embodying the opinion of the European Parliament on the proposal from the Commission of the European Communities to the Council for a sixth directive on the harmonization of the legislation of Member States concerning turnover taxes - common system of value added tax: uniform basis of assessment

The European Parliament,

- having regard to the proposals from the Commission of the European Communities to the Council[1],
- having been consulted by the Council pursuant to Article 100 of the EEC Treaty (Doc. 144/73),
- having regard to Council resolution of 22 March 1971 on the Economic and Monetary Union[2]
- having regard to the decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (Article 4 et seq.)[3],
- whereas a system of tax on added value is extremely simple and impartial provided it is imposed as universally as possible and its application covers all stages of production and distribution, and also services, and whereas it is thus in the interests of the common market and the Member States to adopt a common system which can also be applied to the retail trade,
- having regard to the report of the Committee on Budgets and the opinions of the Committee on Economic and Monetary Affairs and the Committee on Agriculture (Doc. 360/73),

A. General objectives of the directive and their implications

1. Has noted with great interest the proposal for a sixth directive and stresses the fundamental importance of further VAT harmonization, now that VAT has been introduced in all the Member States, for the continuing interpenetration of Member States' economies and as a prerequisite for the abolition of tax controls at internal frontiers;

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[1] OJ C 80, 5 October 1973, p.1

[2] OJ C 28, 27 March 1971, p.1

[3] OJ L 94, 28 April 1970, p.19

2. Also wishes to stress the importance of harmonization of the basis of assessment for VAT in all Member States in connection with the Community's own resources from which the Community must be financed as from 1 January 1975; the latter is to include, besides customs duties and agricultural levies, a levy of not more than 1 per cent of revenue from VAT on goods and services, determined on a common basis of assessment;

3. Wonders whether the Commission is not pitching its demands too high; it lays down rules for a large number of special cases and has given the directive a less flexible character than the two previous ones had;

4. Notes, however, that the proposal for a sixth directive has been submitted too late in view of the fact that not only must the Community's procedure for adoption of the Directive be completed by 1 January 1975, but that legislation in the Member States must also be adapted by that date to take account of the provisions of the Directive, and, moreover, a certain period of time is required between the enactment of national laws and their enforcement - considering the nature of the VAT system - in order to give industry the opportunity to inform itself about the new regulations and to prepare for their application;

5. Notes that, partly due to postponement of deadlines in the context of Economic and Monetary Union and as a consequence of the accession of new Member States, the provisions of Article 4 of the first directive on the harmonization of legislation of Member States concerning turnover taxes (dated 11 April 1967) have not been put into effect: these state that 'the Commission shall submit to the Council, before the end of 1968, proposals as to how and within what period the harmonization of turnover taxes can achieve the aim of abolishing the imposition of tax on importation and the remission of tax on exportation in trade between Member States, while ensuring the neutrality of those taxes as regards the origin of the goods or services';

B. Own resources and VAT

6. Recalls that the introduction of a system whereby the Community derives its own resources from taxation on value added (VAT) is not in itself a reason for raising national rates, as the Member States will at the same time be freed from their previous obligation to make a financial contribution;

7. Deems it necessary that all institutions of the Community and Member States should endeavour to provide precise information on the Community levy of VAT and its significance for Community development.

8. Endorses the Commission's proposals aimed at establishing for each national legislator a uniform area of application for VAT with respect to taxable persons, transactions liable to or exempt from tax, and the method of establishing criteria for collecting the tax;

9. Expresses the desire that the harmonized system should not contain a greater number of administrative constraints than are strictly necessary.

10. Believes in this respect that the periodical returns by taxable persons ought to be limited to a statement of the components on which the total tax liability can be assessed, without any calculations of the Community component of VAT, which will be undertaken by the tax authorities, on the basis of the figures included in the return;

C. The proposals as such

11. Feels that the Member States should be able to fix the period to which periodical returns relate, with a choice between one calendar month or one quarter; in exceptional cases the period could also be fixed at one year or six months;

12. Points out that exemptions (without right to deduction) are inevitable for social and practical reasons but - where the transactions concerned do not take place in the final stage - detract from the regular character of the VAT system since, if an entrepreneur is a buyer of exempted goods or services, the tax applied at an earlier stage is retained in the price of the entrepreneur's end product as supplied to the customer, which means that the turnover tax paid by the ultimate consumer is not exactly proportional to the price of the product or service (as stipulated in Article 2 of the First Directive); and considers that for this reason the number of exemptions to be provided for in the directive must remain limited;

13. Shares the Commission's views concerning the temporary application of the zero rate and feels that as long as the zero rate continues to be applied, the percentage due as own resources will in any event still be levied on the basis of the turnover of goods and services to which the zero rate is applied;

14. Recognizes in principle the need for a special scheme for small undertakings - on whom the VAT system imposes the heaviest administrative burden in relative terms - and feels moreover that the threshold levels contained in the proposal are too low, and believes that a special scheme for small undertakings should not be limited to a transitional period;

15. Would like to see a flat-rate system for those farmers for whom book-keeping entails disproportionately high costs; such a system could be developed in line with the progress made by such farmers in clerical and accounting procedures and would have to be impartial, i.e. offering neither special advantages nor disadvantages to those concerned;

16. Endorses the proposal that the level of the tax burden applied at an earlier stage in the agricultural sector should be calculated by the Commission using a common method of calculation;

17. Considers further that, since the levy of tax on real estate is now regulated by the Community, Member States will have to adapt their legislations to prevent the occurrence - through national taxes on legal transactions - of double taxation;

18. Welcomes the fact that the Member States will grant reimbursement of VAT to entrepreneurs based abroad in cases where national entrepreneurs would be entitled to deduction, since the fact of placing national and foreign entrepreneurs on the same footing can help to bring about a truly common market and is, moreover, perfectly in line with the principles of VAT;

19. Is of the opinion that the utmost circumspection must be exercised in excluding from deduction tax imposed on goods and services which, although coming under normal running expenditure, can at the same time serve to satisfy personal requirements, and that careful consideration must always be given to whether the production or the consumer aspect of the goods in question should be put first;

20. Notes that the Value Added Tax Committee to be created under Article 29 has no legislative powers, its role being restricted to the interpretation of legislation and harmonization of provision for the application of the directive;

21. Expects the Commission to submit proposals in the near future on the control to be carried out by the Community to guarantee proper collection of the revenues due to the Community on the uniform basis of VAT assessment;

22. Requests the Commission of the European Communities to incorporate, pursuant to Article 149, second paragraph, of the Treaty, the following proposed amendments in its proposal;

23. Instructs its President to forward this resolution to the Council and Commission of the European Communities.

Text proposed by the Commission[1] of the European Communities	Amended Text

PROPOSAL

for a sixth Council directive of ..... on the harmonization of legislation of Member States concerning turnover taxes - common system of value added tax: uniform basis of assessment

Preamble and recitals unchanged.

Title I: Introductory provisions

Article 1 — unchanged

Title II: Field of Application

Article 2	Article 2
The following shall be chargeable to value added tax:	unchanged.
Paragraph 1 unchanged	
Paragraph 2 unchanged	
(3) Supplies of services as listed in Article 16(10), effected within the territory of the country to a taxable person by a person established in another country, and supplies of such services effected within the territory of the country to a non-taxable person by a person established outside the Community.	(3) Supplies of services as listed in Article 16(10), effected within the territory of the country to a taxable person by a person established in another country, and supplies of such services effected within the territory of the country to a non-taxable person by a person established outside the Community. This shall not apply if the service is already subject to tax under para. (1) above

Title III: Territory

Article 3	Article 3
(1) 'Territory of the country' means in respect of each Member State, the entire national territory, including territorial waters. It may also extend to the continental shelf.	(1) unchanged.

[1] For full text see OJ C80, 5 October 1973, p.1

Text proposed by the Commission of the European Communities	Amended text
(2) A Member State which, at the date of this Directive, does not apply in toto the principle laid down by paragraph 1 and proposes to continue thus shall so inform the Commission not later than three months after the date of this Directive.	(2) A Member State which, at the date of this Directive, does not apply in toto the principle laid down by paragraph 1 and proposes to continue thus shall so inform the Commission not later than two months after the date of this Directive.
The Commission may, within six months following receipt of such information consult the Member States on the effects of the request, in particular on the fairness of competition and on the Community's own resources; it shall submit proposals to the Council which, acting by a qualified majority, shall decide thereon within six months.	The Commission may, within four months following receipt of such information consult the Member States on the effects of the request, in particular on the fairness of competition and on the Community's own resources; it shall submit proposals to the Council which, acting by a qualified majority, shall decide thereon within four months.
If no decision is adopted by the Council within that period, the proposed measures shall be adopted by the Commission.	unchanged
Pending a Community decision the Member State may apply the derogation requested.	unchanged
Title IV: Taxable persons	
Article 4	Article 4
Para. 1	unchanged
Para. 2	unchanged
3. The transactions referred to in paragraph 1 are:	3. unchanged
(a) the exploitation of tangible or intangible property for the purpose of obtaining income therefrom on a permanent basis;	(a) unchanged
(b) the supply of buildings or parts of buildings and the land on which they stand, before first occupation. A building means any structure fixed to the ground;	(b) unchanged

Text proposed by the Commission of the European Communities	Amended Text
(c) the supply of building land.	(c) unchanged
'Building land' means:	
- land which is prepared for construction, land on which an incomplete building or a building for demolition stands, and rights to build on top of an existing building;	- unchanged
- land other than as defined above on which the person acquiring it, at the time of such acquisition, undertakes to erect a building within four years;	- delete
Para. 4	unchanged
Para. 5	unchanged
Title V: Taxable transactions	
Article 5	Article 5
Para. 1	unchanged
2. The following shall be considered as supplies within the meaning of paragraph 1:	2. unchanged
(a) the actual handing over of goods, pursuant to a contract for the hire of goods for a certain period, or for the sale of goods on deferred terms, which provides that ownership shall pass at the latest upon payment of the final instalment;	(a) unchanged
(b) the actual handing over of:	(b) delete
- movable property, pursuant to a contract for the use of the property for a specified period, with no possibility of unilateral termination by the user, which provides that the user shall at the end of the contract have the option of purchasing the property,	

Text proposed by the Commission of the European Communities	Amended Text
provided that the total of the periodic payments to be made, excluding financing costs, corresponds approximately to the value of the property at the time of handing over to the hirer;	
- immovable property, pursuant to a contract for the use of the property for a specified period, with no possibility of unilateral termination by the user, and in particular pursuant to a contract which provides that the user shall at the end of the contract have the option of purchasing the land and/or the building, where the price to be paid for exercising the option: - is a nominal amount bearing no relation to the economic value of the property at the time of the exercise of the option; or - represents the value of the land as ascertained at the time of formation of the contract and/or the residual value of the buildings at the time of the exercise of the option; or - is fixed in the light of the real value of the property at the time of the exercise of the option:	
(c) to (g)	unchanged
Para. 3	unchanged
Para. 4	unchanged
Article 6	unchanged

Text proposed by the Commission of the European Communities	Amended Text
Article 7 Supply of Services	Article 7 Supply of Services
(1) 'Supply of services' means any transaction which does not constitute a supply of goods within the meaning of Article 5.	(1) unchanged
Such transactions include, inter alia: - the assignment of intangible property; - the observance of an obligation to refrain from an act or to tolerate an act or situation; - the performance of a service in pursuance of an order made by or in the name of a public authority.	
2) The following shall be treated as supplies of services for consideration: (a) the use of goods forming part of the assets of a business for purposes not connected with the business, where the value added tax on such goods is wholly or partly deductible; (b) the supply of services as between persons considered to be a single taxable person within the meaning of the second subparagraph of Article 4(4), save where the value added tax on such services, were they to be supplied by another taxable person, would be wholly deductible.	(2) unchanged
	3. To prevent serious disturbances of competition, Member States may, after prior consultation by a procedure pursuant to Article 30, regard as services transactions carried out by taxable persons within their undertakings where

Text proposed by the Commission of the European Communities	Amended text
	such taxable persons, if they had the transactions carried out by other taxable persons, would not be able to deduct all or part of the tax.
Article 8	unchanged
Titles VI and VII:	unchanged
Articles 9 - 11	unchanged
Title VIII:	Taxable amount
Article 12	Article 12
A. Within the territory of the country	A. Within the territory of the country
1) The taxable amount shall be:	1) The taxable amount shall be:
(a) in respect of supplies of goods and services, other than those referred to in (b), (c) and (d) below, the price, expressed as a sum of money which has been or is to be obtained by the supplier, where such price constitutes the sole consideration for the supply;	(a) in respect of supplies of goods and services, other than those referred to in (b), (c) and (d) below, the consideration which has been or is to be obtained by the supplier of goods or services for the latter;
(b) in respect of supplies under Articles 5(3) and 7(2), and supplies by way of exchange, and, generally, where the price expressed as a sum of money is not the sole consideration for the supply of goods or services, the 'open market value' of the subject of the relevant supply.	(b) in respect of supplies under Article 5(3), the purchase price of the goods supplied or goods of the same kind or where the purchase price is not known, the cost price;
'Open market value' of goods or services means the amount which a customer at the marketing stage at which the supply takes place would have to pay to a supplier at arm's length within the territory of the country at the time of the supply, under conditions of fair competition, to obtain the goods or services in question;	see (c)

Text proposed by the Commission of the European Communities	Amended text
	(c) <u>in respect of supplies specified in Article 7(2) and, generally, where all or part of the consideration is not indicated by the taxable person, the 'open market value' of the subject of the relevant supply.</u> 'Open market value' of goods or services means the amount which a customer at the marketing stage at which the supply takes place would have to pay to a supplier at arm's length within the territory of the country at the time of the supply, under conditions of fair competition, to obtain the goods or services in question;
(c) in respect of the supplies specified in Article 5(2)(b), the total of the periodic payments plus any sum to be paid on exercising the option;	c) Delete
(d) in respect of supplies of buildings and land, other than as referred to in Article 4(3)(b) and (c), purchased for the purpose of resale by a taxable person to a non-taxable person or to a taxable person for whom the value added tax on the building or land in question is not deductible, the taxable amount may be the difference between the selling price and the purchase price.	(d) unchanged
2) The taxable amount shall include:	2) The taxable amount shall include:
(a) taxes, duties, levies and charges, excluding the value added tax;	(a) unchanged
(b) incidental expenses such as commission, packing, transport and insurance costs charged by the supplier to the purchaser even where such costs are the subject of a separate agreement.	(b) incidental expenses such as commission, packing and transport (<u>delete two words</u>) costs charged by the supplier to the purchaser even where such costs are the subject of a separate agreement.

Text proposed by the Commission of the European Communities	Amended text
3) The taxable amount shall not include:	3) The taxable amount shall not include:
(a) price reductions granted by way of discount for advance payment;	(a) unchanged
(b) price discounts and rebates allowed to the customer and accounted for at the time of the supply;	(b) unchanged
(c) interest to be paid on deferred or delayed payments;	(c) unchanged
(d) returnable packing costs;	(d) unchanged
(e) amounts paid in the name or for account of the customer and credited in the supplier's books to a suspense account.	(e) unchanged
	(f) <u>insurance costs</u>.
4) In respect of the supplies specified in Article 5(2)(f), the amount of compensation paid, excluding reemployment allowance, shall be deemed to be the taxable amount.	4) unchanged
	5) <u>If pursuant to Article 17(5) the value added tax on goods supplied is only partially deductible, the taxable amount may be reduced by a percentage equivalent to the deduction actually made in the case of the goods concerned.</u>
Sections B and C	unchanged
<u>Title IX</u>: <u>Rates</u>	
<u>Article 13</u>	<u>Article 13</u>
1) The rate applicable to taxable transactions shall be that in force at the time of the chargeable event.	1) The rate applicable to taxable transactions shall be that in force at the time of the chargeable event.

Text proposed by the Commission of the European Communities	Amended Text
However, in the cases provided for in the last subparagraph of Article 11(3), the rate applicable shall be that in force at the time of release for free circulation.	However, in the cases provided for in the last subparagraph of Article 11(3), the rate applicable shall be that in force at the time of release for free circulation. The Member States may take transitional measures in respect of current transactions of certain kinds if changes in rates come into force.
Paragraphs 2 - 4	unchanged
Title X:	Exemptions
Article 14 Exemptions within the territory of the country	Article 14 Exemptions within the territory of the country
A. Exemptions for certain activities in the public interest	A. Exemptions for certain activities in the public interest
1. Member States shall exempt the following:	1. Member States shall exempt the following :
(a) the supply of services other than passenger transport, and supplies of goods incidental thereto, by public postal and telecommunication services;	(a) the supply of services other than passenger transport and telecommunication services, and supplies of goods incidental thereto, by public postal services;
Sub-paragraphs (b) to (k)	unchanged
	(l) Works as referred to in Article 6 carried out by or on behalf of local authorities which are not resold as they stand, nor included in the price of sites, nor let at a profit, but put at the disposal of users without charge.
Paragraph 2	unchanged

Text proposed by the Commission of the European Communities	Amended text
B. Other exemptions	B. Other exemptions
Member States shall exempt:	unchanged
(a) insurance and reassurance transactions and services relating thereto supplied by insurance brokers and insurance agents;	(a) unchanged
(b) the supply of services by undertakers and supplies of goods incidental thereto;	(b) the supply of services by funeral enterprises and crematoria, and supplies of goods incidental thereto;
(c) supplies of goods and services to organizations responsible for constructing, installing and maintaining cemeteries, graves and monuments commemorating war dead;	(c) supplies of goods and services to organizations responsible for constructing, installing and maintaining cemeteries, graves and monuments commemorating those who have died as a result of war or acts of violence;
Sub-paragraphs (d) to (g)	unchanged
(h) dealings in currency other than for collection, and in gold to be used as coin, and credit transfers;	(h) dealings in currency other than for collection, and in gold to be used as coin, and credit transfers;
	gold to be used as coin means gold with a gold content equal to or greater than 900/1000 and intended for use by authorized financial organizations.
Sub-paragraphs (i) to (m)	unchanged
	(n) the services supplied by lawyers, legal advisers and other persons fulfilling the same type of function, involving jurisdiction and relating to private persons.
Articles 15 and 16	unchanged

Text proposed by the Commission of the European Communities	Amended text
Title XI: Deductions	
Article 17 **Existence and scope of the right to deduct**	**Article 17** **Existence and scope of the right to deduct**
Paragraph 1	unchanged
2. Where goods and services are to be used for the purposes of his taxable business, the taxable person shall be entitled to deduct from the tax which he is liable to pay:	2. unchanged
(a) value added tax invoiced to him in accordance with Article 23(3) in respect of goods or of services supplied to him;	(a) value added tax invoiced to him in accordance with Article 23(3) in respect of goods or of services supplied <u>or to be supplied</u> to him;
Sub-paragraphs (b) - (d)	unchanged
Paragraph 3	unchanged
4. Each Member State shall refund to any taxable person established in another country who supplies no goods or services within its territory the value added tax invoiced to him in respect of goods and services supplied to him in the said territory, where the value added tax on such goods or services would be deductible, if the taxable person in question carried on his business within its territory.	4. unchanged
The refund shall be made upon application from the taxable person. No application shall be made in respect of an amount of tax lower than 100 units of account, but several invoices may together form the subject of a single application.	The refund shall be made upon application from the taxable person. No application shall be made in respect of an amount of tax lower than <u>50</u> units of account, but several invoices may together form the subject of a single application <u>inasfar as they are made out in the same calendar year.</u>
Paragraph 5	unchanged

Text proposed by the Commission of the European Communities	Amended text
6. Value added tax on the following shall not be deductible:	6. Value added tax on the following shall not be deductible:
(a) expenditure on accommodation, lodging, restaurants, food, drink, entertainment and passenger transport, unless incurred by an undertaking whose principal or subsidiary business is the pursuit of such activities;	(a) expenditure on (delete 2 words) restaurants, food, drink and entertainment (delete 3 words), unless incurred by an undertaking whose principal or subsidiary business is the pursuit of such activities;
Sub-paragraphs (b) - (d)	unchanged
Article 18	Article 18
Rules for exercising the right to deduct	Rules for exercising the right to deduct
Paragraph 1	unchanged
2. The taxable person shall effect the deduction by subtracting from the total amount of value added tax due for a given tax period the total amount of the tax in respect of which, during the same period, the right to deduct has arisen and can be exercised under paragraph 1 (immediate deduction).	2. unchanged
However, as regards taxable persons who carry out occasional transactions as provided in Article 4(3)(b) and (c), the right to deduct shall be exercised only at the time of the supply.	unchanged
Where by error or omission the taxable person does not make the deduction at the right time, he may exercise his right to deduct at any time up to and including 31 December of the year following that in which the deduction should have been made in accordance with the first subparagraph. The deduction shall in such case be made in accordance with the provisions in force at the time when the deduction should have been made.	unchanged

Text proposed by the Commission of the European Communities	Amended text
It may be exercised when the return provided for in Article 23(7) is made .	
	Notwithstanding the provisions set out in the previous sub-paragraph, the taxable person may make a deduction not made at the right time if the basis of assessment is raised at a later date.
3. Where for a given tax period, the amount of authorised deductions exceeds the amount of tax due the Member States may either make a refund or carry the excess forward to the following period. However, upon application from the taxable person, the excess amount at 31 December shall be refunded to the taxable person within three months.	3. Where for a given tax period, the amount of authorised deductions exceeds the amount of tax due, the excess shall be repaid as rapidly as possible and in any case within one month after the return is submitted. Member States are authorised not to make repayment and to carry forward the excess to the following period provided that the amount involved does not exceed 10 units of account.
Articles 19 and 20	unchanged
Title XII: Persons liable for payment of tax	
Article 21 Persons liable to pay tax to the tax authority	Article 21 Persons liable to pay tax to the tax authority
The following shall be liable to pay value added tax:	The following shall be liable to pay value added tax:
1. Under the internal system:	1. Under the internal system:
(a) taxable persons who carry out taxable transactions, and agents of taxable persons established in another country who carry out taxable transactions;	(a) taxable persons who carry out taxable transactions, and agents of taxable persons established in another country who carry out taxable transactions inasfar as the taxable transaction is performed through the intermediary or with the cooperation of the agent;

Text proposed by the Commission of the European Communities	Amended text
Sub-paragraphs (b) and (c)	unchanged
Paragraph 2	unchanged
Title XIII: Assessment of the amount of tax to be paid and liability for payment of the tax	
Article 22	unchanged
Title XIV: Obligations of persons liable for payment	
Article 23 Obligations under the internal system	Article 23 Obligations under the internal system
Paragraphs 1 and 2	unchanged
3. (a) Every taxable person shall issue an invoice in respect of all goods and services supplied by him to another taxable person, and shall keep a copy thereof. Every taxable person shall likewise issue an invoice in respect of payments on account made to him by another taxable person before the supply of goods or services is effected or completed.	3. (a) unchanged
(b) The invoice shall state clearly the price exclusive of tax and the corresponding tax at each rate as well as any exemptions.	(b) unchanged
	However, invoices in an amount - including VAT - of not more than 20 units of account need only state the total amount including tax and the rate applicable or, in appropriate cases, the exemption.
	Where Article 12(A)(1)(d) applies, the seller shall not be obliged to enter the tax amount separately on the invoice.

Text proposed by the Commission of the European Communities	Amended text
Sub-paragraph (c)	(c) unchanged
4. Every taxable person subject to the normal tax system shall each month submit a return setting out the supplies in respect of which tax has become chargeable during the preceding month together with all information required to calculate the tax and the deductions to be made, including the total amount of the relevant supplies and the total amount of exempted supplies.	4. Every taxable person subject to the normal tax system shall submit a return within one month of the end of the tax period. This period shall be fixed by the Member Statess at one month or one quarter, although in exceptional cases a period of one year or six months may be fixed. The return shall include all information required to calculate the tax and the deductions to be made, including the total amount of the relevant supplies and the total amount of exempted supplies.
Paragraph 5	delete
Paragraphs 6 - 9	unchanged
10. Member States may release from certain obligations taxable persons who make only exempt supplies.	10. Member States may release taxable persons from certain obligations connected with exempt transactions.
Article 24	unchanged
Title XV: Special schemes	
Article 25 Special scheme for small undertakings	Article 25 Special scheme for small undertakings
Paragraph 1	unchanged
2. The relevant turnover for the purpose of the application of paragraph 1 a) shall be the total pre-tax amount of the supplies of goods and services defined in Articles 5 and 7, including exempt supplies and supplies made in another country.	2. unchanged
However, disposals of tangible or intangible investment property which formed part of the fixed assets of the undertaking, supplies of buildings and of building land, the transactions specified in Article 14 B d) and f) and the letting of buildings shall be disregarded in calculating the turnover.	However, at the taxable person's request, the provisions of para. 1(a)(aa) shall apply to taxable persons who are only liable to value added tax for the letting of real property.

Text proposed by the Commission of the European Communities	Amended Text
3. Paragraph 1(a) shall not apply to taxable persons whose main or subsidiary business consists of real property transactions, nor to the transactions specified in the second subparagraph of paragraph 2.	3. Paragraph 1(a) shall not apply to the transaction referred to in Article 4(3)(b) and (c) nor to the transactions referred to in Paragraph 2, second subparagraph of this article.
Paragraphs 4 and 5	unchanged
Article 26	unchanged
Article 27	Article 27
Paragraphs 1 to 3	unchanged
4. Member States shall fix, at levels not exceeding 90% of the levels of input charge adopted in accordance with paragraph 3, two fixed offsetting percentages as follows:	4. Member States shall fix, at levels not exceeding 100% of the levels of input charge adopted in accordance with paragraph 3, two fixed offsetting percentages as follows:
(a) the first to offset the input charge in respect of agricultural and fisheries undertakings, and applicable to supplies by a flat-rate farmer of agricultural products from such undertakings and of agricultural services;	(a) unchanged
(b) the second to offset the input charge on forestry undertakings, and applicable to supplies by a flat-rate farmer of agricultural products from such undertakings.	(b) unchanged
Member States may, subject to consultation with the Value Added Tax Committee as provided for in Article 30, vary the offsetting percentage provided for in (a) above by reference to subdivisions of agriculture or by treating separately agriculture proper and fisheries. In such case they shall fix different fixed offsetting percentages for agricultural products from each subdivision or from agriculture proper and from fisheries. None of these different fixed offsetting percentages shall	unchanged

Text proposed by the Commission of the European Communities	Amended Text
exceed the level of the fixed percentage provided for under (a).	
5. In order that flat-rate farmers may gradually transfer to the normal value added tax scheme or, as the case may be, to the simplified scheme provided for in Article 25 (1)(b), the fixed offsetting percentages applies in each Member State shall not exceed:	delete.
- from the fourth year following the entry into force of this Directive, 80% of the value added tax charge on inputs adopted in accordance with paragraph 3;	
- from the seventh year following the entry into force of this Directive, 70% of the value added tax charge on inputs adopted in accordance with paragraph 3.	
Paragraphs 6-17	unchanged
Title XVI: Transitional provisions	
Article 28	unchanged

Text proposed by the Commission of the European Communities	Amended Text
Title XVII: Value Added Tax Committee	
Articles 29 - 31	unchanged
Title XVIII: Miscellaneous provisions	
Article 32	Article 32
For the first time on 1 January 1976 and thereafter every two years, the Commission shall, after consulting the Member States, send the Council a report on the application of the common value added tax system in the Member States.	For the first time on 1 January 1976 and thereafter every two years the Commission shall, after consulting the Member States, send the Council and the Parliament a report on the application of the common value added tax system in the Member States.
Article 33	Article 33
At the appropriate time the Council, acting on a proposal from the Commission and in accordance with the interests of the common market, shall adopt further Directives on the common value added tax system, in particular to restrict progressively or to repeal measures taken by the Member States by way of derogation from the system, in order to achieve complete parallelism of the national value added tax systems and thus permit the attainment of the objective stated in Article 4 of the First Directive.	At the appropriate time the Council, acting on a proposal from the Commission in agreement with the Parliament and in accordance with the interests of the common market, shall adopt further Directives on the common value added tax system, in particular to restrict progressively or to repeal measures taken by the Member States by way of derogation from the system, in order to achieve complete parallelism of the national value added tax systems and thus permit the attainment of the objective stated in Article 4 of the First Directive.
Articles 34 - 36	unchanged
ANNEXES A and B	unchanged

Text proposed by the Commission of the European Communities	Amended Text
ANNEX C	ANNEX C
COMMON METHOD OF CALCULATION	COMMON METHOD OF CALCULATION
I. For the purposes of calculating the value added tax charge on inputs in a Member State for, respectively, all agricultural and fisheries undertakings and all forestry undertakings, the following shall be taken into account:	unchanged
(1) The value of the total final production, exclusive of value added tax, of respectively the Classes 'agricultural products and game' and 'wood in the rough' as set out below at points III and IV, plus the output of the processing activities referred to in point V of Annex A;	I (1) The value of the total final production, exclusive of value added tax, of respectively the Classes 'agricultural products and game' and 'wood in the rough' as set out below at points III and IV, plus the output of the processing activities referred to in point V of Annex A; the value of the final production comprises not only the value of the production sold to persons liable to VAT, but also the value of the production consumed by the farmers themselves, the value of production sold by farmers directly to persons not liable to VAT, and the value of services supplied by farmers to persons not liable to VAT
(2) Total inputs in respect of the production and output referred to in (1);	(2) unchanged
(3) Gross fixed asset production in connection with the activities listed in Annex A.	(3) unchanged
II - IV	unchanged

B

EXPLANATORY STATEMENT

I. Preliminary remarks

1. The 'proposal for a sixth Council directive on the harmonization of the legislation of Member States concerning turnover taxes - common system of value added tax: uniform basis of assessment' was submitted to the Council on 29 June 1973 and published on 5 October 1973 in the Official Journal of the European Communities.[1] It involves continuous harmonization of the value added tax system, a problem with far-reaching consequences for the Community as a whole, the individual Member States, consumers and tax-paying entrepreneurs, and the national tax administrations. In view of the accession of the new Member States the date set for the submission of the proposal to the Council is understandable; however, when one considers the role the directive is to play in the collection of own resources, it is clear that the proposal has come too late for legislation in the Member States to be not only adapted by 1 January 1975 to a directive which has not yet been adopted, but also put into effect.

   For years it was intended that such legislation should be implemented by 1 January 1974. If the question is considered realistically, however, it will be recognized that this cannot even be achieved by 1 January 1975, quite apart from the fact that there are certain aspects of the matter which the Commission acknowledges will raise problems.

2. The value added tax system which has now been introduced in all the Member States, including the new ones, is a general consumption tax, and as such the corner-stone of the indirect taxation system and must, in the very near future (as explained further on), when a uniform basis of assessment has been established, form the basis for the collection of a part of the Community's own resources.

3. Whereas the first and second VAT directives still allowed the Member States great latitude, and the third, fourth and fifth simply concerned the introduction of VAT in Italy and Belgium, the present proposal for a sixth directive allows national legislators much less freedom and is more in the nature of a tax law. Consequently, the European Parliament must examine the the matter as thoroughly as possible.

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[1] OJ No. C 80 of 5 October 1973.

II. What is a common VAT system intended to achieve?

4. If one takes the first directive (1967) as a guide, the VAT system can be seen as being directly linked with the objective of the abolition of tax frontiers, i.e. the ending of the system of remission of taxes on exportation and imposition of taxes on importation.

The system is therefore a very good way of creating the right conditions for the totally unrestricted movement of goods and services between the Member States since it removes fiscal obstacles to undistorted competition.

This tax is based on the principle of precentage payments at every stage of the production and distribution chain and on the right of every taxable person to deduct entirely and immediately the VAT which he has already paid at the time of purchase, and makes it possible to ascertain the exact tax burden of each stage of the chain and to avoid any cumulative effects.

That means that the tax burden on any product on the domestic market will be identical regardless of the number of stages in the process it goes through, and that it has proved possible in intra-Community trade to assess exactly the amounts payable at frontiers by way of compensation. This means that a more protracted production chain, which may be the case, for example, for goods produced by craftsmen, does not imply any disadvantage in respect of tax, and also that it is no longer possible to favour national producers via VAT by granting flat-rate compensations at frontiers.

If, however, we are to achieve such impartiality and remove the tax obstacles to free competition in national and intra-Community trade there are certain conditions that must be met.

First and foremost VAT must remain what it is essentially, i.e. a general tax on consumer expenditure, so as to ensure that some goods or services do not escape final tax whilst others remain subject to it. This condition is necessary not only for budgetary reasons, but also because of the interdependence of all sectors of any one market.

Secondly the principle of percentage payments should be maintained since the distribution of the tax burden on the basis

of the 'added value' is a fair way of helping to create undistorted conditions of competition between entrepreneurs.

This means that everything must be done to ensure that tax is duly imposed at every stage.

5. These general conditions were mainly provided for in the first and second directives. The Council's resolution of 9 December 1969 added that the tax should also be imposed at the most sensitive stage, i.e. the 'final consumption' stage, thus bringing the retail trade into the sphere of application of VAT.

There followed the Council Decision of 21 April 1970 stipulating that VAT should contribute to the financing of the Community.

In this the budgetary reasons for a general tax with harmonised regulations was emphasised.

If the stated advantages of the system are to be fully exploited this latter point gives rise to further requirements, viz.:

- the reduced rates must not be too low, so that the taxable person can take full advantage of his right to deduction. If the tax rate policy of the Member States were deficient in this respect cases should never be allowed to arise in which there would be no right to deduction wherever this involved a net claim on the Treasury - as such a system would be detrimental to the tax-payer and conditions of competition.
- the number of exceptions should be restricted as far as possible.
- zero rates should not be allowed to continue indefinitely; many feel that they do not really constitute genuine taxation.
- common rules should be established for the Member States covering such basic matters as taxable persons, taxable events, deduction, and exceptions. This is also necessary to ensure the even distribution of the burden of own resources from VAT.

III. Value added tax in the eyes of the Community public

6. In some Member States the introduction of the VAT system was received by the general population with some reservations.

It was described as a means of generally boosting prices and as being socially unfair, because as a method of indirect taxation

it represented a greater burden on the final consumer, the 'man in the street'.

This may have been due to many factors, such as the state of the economy at the time when the new system was introduced and the information provided for those liable to the tax.

It could also be said that the inadequacy of public information was one of the main reasons for the negative attitude of the people of the Community towards anything connected with VAT. A furtherreason was the obscure nature of an earlier system applied by some Member States, the cumulative multi-stage tax.

7. The Committee on Budgets is dwelling on this point because from 1975 VAT is also to become a source of finance for the Community budget. We must avoid giving the people the impression - and this is the task of all the organs of the European Communities - that the introduction of a uniform basis of assessment for the Community's own resources will mean additional taxation leading to an increase in VAT rates.

8. The situation is rather that the financial contributions made so far by the Member States will no longer apply and will be replaced by the Communities' claim to a proportion of the VAT yield. As the financial contributions of the Member States were taken from their overall revenue there will simply be a redistribution within national budgets. The above only applies to the replacement of financial contributions by a part of the VAT yield.

   If EEC expenditure increases at a greater rate than the value of the common basis the situation wil naturally change.

9. If we assume that the proportion of own resources derived from customs duties and agricultural levies will be a more or less fixed amount any extension of the activities of the Communities will necessarily be dependent on a larger share of the VAT yield (within the 1% margin established for the common basis of assessment). The consequent loss of VAT revenue to Member States must not, however, be made good by higher VAT rates.

   Each State is free to distribute the tax yield over the various tax categories in keeping with its national policy. It is, however, highly desirable that the considerable differences in ratio between the proportions of direct and indirect taxation which make up the total tax yield per Member State should be gradually reduced.

10. The possible consequences of a common VAT system in the Community must therefore be made very clear to the public, as must those

which it must not be allowed to have. The public must also be sufficiently well informed of the social aspects of such a system.

A progressive element can be built into a VAT system by means of variations in rates and exemptions. However it would be unwise to count on this too much as VAT neither lends itself to being, nor is it intended to be, a progressive tax system. In principle VAT is a tax imposed in proportion to consumption and the progressive effect to be gained by levying lower rates or granting exemptions for goods and services which are used relatively more by the lower-paid than by the higher-paid is not very significant.

11. A few examples from three Member States will help to illustrate the actual situation.

(a) VAT was introduced in the Netherlands (1.1.1969) at two levels, 12% and 4%, the latter applying to a number of 'essential' goods and services. The effect of this selective application has been a certain progression in the VAT tax burden , i.e. 8.27% of the total taxable consumption for the Dfl. 7,500 income group, and 9.38% for the Dfl. 25,000-plus income group, with an average of 8.78% for all income groups (see Annex III of the 'Memorie van Antwoord, Wetsontwerp BTW 1968).

(b) A recent French study ('La TVA et consommation des ménages' - Statistiques et Etudes Financières, 4ème trimestre, 1973/12 Ministry of Economic Affairs and Finance) shows that the rates applied in 1969 made VAT slightly progressive in its effect 1% at the most for the income groups given. If the rates were to be harmonized into a single rate the tax would become somewhat regressive, 0.8% at the most. The figures were as follows:

	3,000 to 10,000	10,000 to 15,000	15,000 to 20,000	20,000 to 30,000	30,000 to 50,000	50,000 +	average
single rate	11.3	11.5	11.3	11.3	11.2	10.7	11.3
1969 law	10.7	11.3	11.1	11.4	11.7	11.5	11.3

(c) An English study ('Impact of tax changes on Income Distribution' by the Institute of Fiscal Studies in collaboration with the Political and Economic Planning Office, February 1971) shows that tax differentiation has little effect on whether the tax burden is progressive or regressive. The report sets out figures for a single rate of 8.9%, a single rate of 11.8% with a zero rating for food, and a single rate of 13.1% with a zero rating for food and half-rate for housing construction. The differences in tax burden noted for different kinds of families and different income groups did not exceed 1 or 2 per cent for

any of the various alternatives specified. The report therefore draws the conclusion that the effect on income distribution should not be a decisive factor in opting for a single rate or various rates, including zero rates.

12. There are a number of factors which explain why the progressive effect secured by the differentiation of VAT rates is so negligible: it may be true that certain lightly taxed goods and services, such as food are purchased in relatively greater quantities by low-income groups than by high-income groups, but on the other hand there is the fact that, for various reasons (e.g. promotion of culture) certain goods and services which form a relatively larger component in the budgets of high-income groups are taxed at a lower rate or are completely exempt. The various VAT laws provide for exemption or low rates of taxation for postal services, certain theatres, concerts, museums, libraries, books, works of art, etc. Naturally such exemptions and low ratings attenuate the progressive effect which the application of different rates and exemptions is designed to achieve. (For the distribution expenditure in the budget see, for instance, table 4 of the above mentioned French report). A further factor is that, with increasing prosperity, goods subject to the normal or increased rates are occupying an increasingly larger place in the budgets of the low-income categories.

13. There are many disadvantages in differential VAT rates to offset the benefits of its slightly progressive effect. Compared with a one or, at most, two-rate system a multi-rate structure gives rise to considerable administrative complications. This applies especially to many small undertakings, and in particular undertakings operating at the final stage (retail trade). Differentiation also raises many legal problems as the classification of certain goods and services into lower or higher VAT categories can in many cases give rise to differences of interpretation.

    Finally the maintenance of lower rates or even zero rates means that the normal rate has to be higher - in view of the need to assure a given fiscal revenue - than would be the case under a single-rate system. Moreover, higher VAT rates make fraud more profitable and therefore more tempting.

    If one weighs up these disadvantages against the relatively negligible progressive effect secured under a multi-rate system,

it is clear that one must be extremely cautious in advocating the maintenance of a number of different rates. The advantages of applying only a single rate are considerable.

Income tax is the most appropriate instrument for providing a built-in element of progressive taxation to take account of the differences in tax-paying capacity and the objectives of the income distribution.

IV. The objectives to be attained through the introduction of a uniform basis of assessment for VAT

14. The present sixth directive has two objectives:

(a) Its application is to contribute, within the framework of progress towards economic and monetary union, to the abolition at a later stage of tax on imports and the remission of tax on exports in trade between Member States and thus foster effective freedom of movement of persons, goods, services and capital, and to the interpenetration of national economies permitting fairer competition;

(b) Pursuant to a Council decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources[1], value added tax is to contribute to the financing of the Community budget. Value added tax, being a general consumption tax, was considered the most appropriate means of achieving this objective. Pursuant to the above decision resources accruing from the value added tax shall be obtained by applying a rate not exceeding 1% to an assessment basis which is determined in a uniform manner for Member States. As this decision is to be applied from 1 January 1975 there is a certain degree of urgency about this second objective. The fact that this time limit might not be respected exactly in no way detracts from this urgency.

One could ask oneself whether the own resources decision really makes such far-reaching harmonization as that now proposed necessary.

If one views the problem exclusively from the angle of collection of own resources, it could be agreed that, if VAT is only to affect final consumption, it should not be necessary to harmonize all VAT regulations concerning commercial and industrial activities.

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[1] OJ No. L 94, 28 April 1970, p. 19

However the Commission has clearly used the own resources decision as a means to get the whole process of further VAT harmonization underway again with the final objective of completely harmonizing turnover tax legislations and in particular the abolition of tax frontiers.

V. The uniform basis of assessment for value added tax as a basis for collection of the own resources of the Community

15. Article 4 of the decision of 21 April 1970 on the replacement of financial contributions from Member States by the Community's own resources stipulates in particular that own resources, as from 1 January 1975, and apart from the customs duties and levies, shall include 'those accruing from the value added tax and obtained by applying a rate not exceeding 1% to an assessment basis which is determined in a uniform manner for Member States according to Community rules.'

A. General conditions for the collection of own resources based on a uniform basis of assessment for value added tax

Fiscal or macro-economic method?

16. It goes without saying that in order to ensure fair distribution of the burden on the Member States under a common value added tax system standardization of the basis of assessment must be far-reaching enough to accommodate this principle. This means that common criteria must prevail, in particular in respect of taxable persons, transactions exempted from taxation or liable to zero rates and certain special regulations. Any departures from these rules must not conflict with the principle of a fair distribution of the burden of the resources to be collected over the Member States.

17. There are in theory two conceivable methods for guaranteeing the Community's claim to its own resources and a fair method of collection, apart of course from solutions combining elements from both methods. One method, which could be called 'fiscal' would be to oblige the taxable person, in extreme cases, to keep separate accounts for his Community tax liability by entering both the national VAT percentage and the EEC percentage on invoices and tax returns.

An example of such a tax return[1], in which the EEC percentage is

[1] freely borrowed from A.L.C. Simons 'De opheffing van grenzen voor accijnzen en omzetbelasting. Enige staatsrechtelijke problemen en fiscale wensen (II slot)' -Weekblad voor Fiscaal Recht (Ned.) 22 February 1973.

assumed, for the sake of simplicity, to be one per cent and to be superimposed on the national percentages (neither of which need necessarily be the case) is given below:

		VAT
present return: turnover	1,000 at 16%	160
	500 at 4%	20
		180
deduct VAT		136
to be paid		44

return with EEC levy (extreme form of 'fiscal' method):

	national VAT	EEC VAT
turnover 1,000 at 17%	160	10
500 at 5%	20	5
	180	15
deduct 800 at 17%	128	8
200 at 5%	8	2
	-136	-10
	44 +	5 = 49

The other method, which we shall term 'macro-economic', involves applying the Community tax rate to the national economic basis of assessment for each Member State arrived at on the basis of the general VAT revenue of the Member States, in accordance with tax rates applicable to different kinds of turnover, and correct application of final consumption statistics. Whilst the first method would involve considerable extra effort for the taxable person and the tax administration, the second method puts the onus on the responsible financial authorities of the Member States and any departments which may later be specifically designated for this task.

18. The Commission is endeavouring in practice to find an intermediate solution as can be seen from its observations on Article 23, paragraphs 4 and 5: 'Certain additions have been made to the text relating to periodical returns, which provides that every taxable person shall provide in his return: 'all information required to calculate the tax and the deductions to be made', so that tax administrations will have the necessary information at their disposal when the time comes to calculate the portion of the value added tax revenue which is to accrue to the Community's own resources'. However

the Commission has already stated that there is no question of separate entry of national and European VAT percentages on invoices, receipts and tax returns.

Although the fact is not stressed, the 'fiscal' method clearly provides the structural basis for the Commission's proposal. This would confirm the role of the Community as an independent tax authority vis-à-vis the Member States. The low degree of flexibility and scope which the draft directive leaves legislators in the Member States is most certainly characteristic of the fiscal method on which the Commission bases its proposal and which is considered necessary to emphasize the concept of a European tax.

In the opinion of the Committee on Budgets the 'fiscal' method does not necessarily follow from the Council Decision of April 1970, since the term 'own resources' does after all mean that the Community must obtain budgetary revenue calculated by objective methods and not governed by the wishes of the Member States. If this could be done by means of a macro-economic method there would, in the committee's opinion, be no conflict with the above-mentioned Council decision.

Another instrument factor in the choice of methods is doubtless the degree of harmonization of tax rates envisaged for a later stage. It was no doubt still thought at the time when the own resources decision was made that there should be complete standardisation of tax rates. This subject will be taken up again later.

Your rapporteur still feels that statistical methods should be improved with a view to investigating the possibility of eventually ensuring an adequate collection of own resources using macro-economic methods.

19. This view is not shared by the Commission, which feels that statistical techniques are not sufficiently advanced in all countries and that the macro-economic method, which has a more general effect, would not yield such an accurate common basis as the fiscal method, which consists of an exact total of individual returns. The Committee on Budgets, however, is of the opinion that if the fiscal method were used the differences in the individual Member States resulting from different attitudes to taxation and different systems of collection could in the long run lead to distortions in the calculation of own resources as great as would arise by use of the macro-economic method, which is based on macro-economic statistics not always perfectly harmonized. Neither of the two methods guarantees absolute precision in establishing the appropriate amount of value added tax to be allocated to the Community.

20. Even at this early stage it would be desirable to consider what would happen if the directive were not applied by 1 January 1975 in one single Member State or in all of them or indeed had not even been adopted by the Council. Every effort should be made to guarantee prompt application of

the directive. However, special arrangements must be made for financing the 1975 budget in the event of non-application.

Paragraphs 2 and 3 of Article 4 of the Council Decision of 21 April 1970 speak of the financial contribution from each Member State being determined according to the proportion of its gross national product to the sum total of the gross national products of the Member States. The Commission notes in Doc. SEC (73) 3743 fin. of 22 October 1973, 'Financial Estimates for 1974-1976' that the Statistics Office of the European Communities should be provided in good time with the requisite figures calculated according to the definition of GNP laid down in the European system of integrated economic accounts. Even if the Community does succeed in putting into effect before 1975 the proposed system of own resources, based on a common system of VAT, your rapporteur still feels that a macro-economic method should be sought which would probably make such a proposal more acceptable to the Council because of its general nature and the little attention to detail it requires.

B. Special requirements for the collection of the Community's own resources

21. The problem of collecting own resources is only referred to in Article 23 (paragraphs 4 and 5) of the proposed directive and even there only indirectly.

If the Community is to plan its budget properly the information from Member States must be available as soon as possible. The transfer of own resources must also be governed by a specific system and be implemented at precisely defined times so that the Commission can coordinate its funds and its expenditure commitments.

There are also very wide differences in the methods of collecting taxes in the various Member States and the times at which taxes are collected. This will in turn have some effect on the determination and collection of the proportion of VAT due to the Community.

22. The above mentioned document on 'Financial Estimates' states that the Commission's departments must draw up a draft regulation on ways and means of collecting the VAT component due to the Community while ensuring, on grounds of fair play, that the national administrations shculd establish, collect, control and transfer such revenue under Community rules.

It is perhaps worthwhile recording in this connection that the Commission, very roughly puts the VAT basis for the Member States as a whole at 675,000 million u.a. for 1975, and 740,000 million u.a. for 1976. (for method of calculation see Doc. SEC(73) 3743 fin. paras. 2.4.1 to 2.4.4).

VI. The main problems involved in fixing a uniform basis of assessment

23. There is no doubt that the Commission has done some valuable groundwork. In its proposal on the definition of a uniform basis of assessment it has not made things easy for itself, indeed it may even have exceeded the terms of reference of a directive inasfar as smaller details are also included which could be regulated by each Member State individually because of their lesser significance.

24. The following general problems stand out from a mass of more specific problems:

- the abolition of zero rates;
- exemptions;
- non-entitlement to deduction;
- the flat-rate scheme for farmers;
- the special scheme for small undertakings;
- the inclusion of real estate turnover;
- the creation of a value added tax committee;

A. Abolition of zero-rating

25. The transitional provisions (Article 28 of the proposed directive) provide that zero rates may be maintained temporarily if they do not conflict with the commitments of the own resources system. They must, however, be abolished at the latest by the date on which the charging of tax on imports and the remitting of tax on exports in trade between the Member States is abolished.

Certain supplies currently subject to zero rating (e.g. food in the United Kingdom) have a great economic, and in the rapporteur's opinion above all psychological significance and this seems to justify a transitional period.

Any extension of zero rates for specified turnovers to all Member States does not seem to be a worthwhile target for a rational Community VAT system. The reasons why zero rates are undesirable are given in sections 4, 5 and 10 above. Moreover, they tend to increase the gap between rates in the Community, which makes approximation of the rates in the Member States more difficult.

It should, however, be mentioned that, unlike exemptions (i.e. no entitlement to deduction), zero rates do not interfere with the VAT system as such. With zero rates the entitlement to deduction still obtains, which means that no cumulative effect occurs as with exemptions.

B. Exemptions

26. The list of tax exemptions included in Article 14 of the proposed directive is quite long and it could be asked whether the Commission has indeed followed the principle of restricting the number of tax exemptions as far as possible (as an exemple: lotteries and gaming are included for what are claimed to be practical reasons).

One point which should not be forgotten on the question of tax exemptions is the disadvantage arising when exempted transactions do not qualify for deduction of VAT already paid, so that the consumer might ultimately have to bear indirectly a higher taxation burden than that envisaged by the legislator.

Furthermore exemption of services may distort conditions of competition and lead entrepreneurs to set up their own internal departments (VAT on services by third parties is not deductible) thus giving them an advantage over their tax-paying competitors.

C. Non-entitlement to deduction

27. The aim of VAT is to tax consumption by imposing a non-cumulative consumption tax.

With this in mind a problem arises if certain expenditure can be put down as a matter of course as operational expenditure, in which case entitlement to deduction must be granted, whilst this expenditure may at the same time incorporate elements of private (final) consumption, which is not entitled to such deduction. In such cases it must be decided whether deduction should be allowed or not, and a possible question is whether the production element or consumption element is more important. This should create the best possible synthesis with regard to the objectives of VAT (taxation of the final consumption stage) whilst respecting the principle of the avoidance of double taxation.

For these reasons, the Committee on Budgets considers that leisure and luxury expenditure should probably not qualify for deduction as the consumption element is dominant.

At the same time, however, a more precise definition of such expenditure is needed.

The Committee also believes, however, that such considerations should not lead to non-entitlement in the case of, for instance, passenger transport and accommodation.

In many cases involving expenditure of this kind the consumption element will be non-existent, and in others it will at least be very subordinate to the production aspect. In order to avoid a cumulative effect, especially in those sectors where marketing costs represent a large proportion of the value added, entitlement to deduction should not be excluded in such cases. (See also remarks and amendments in respect of Article 17(6).)

D. Flat-rate scheme for farmers (Article 27 of the proposed directive)

28. The common flat-rate scheme provides for harmonization of the value added tax burden on products and services provided by farmers who do not apply the normal tax scheme. The arrangement is intended especially for smaller agricultural producers, of which there are a great number in the Community.

However, the application of a flat-rate scheme is necessary for many farmers and is in fact the practice in most Member States at the present time.

One aim of the proposal is to encourage farmers under this scheme to opt for the normal system.

The directive incorporates a procedure for calculating and fixing VAT on inputs in each Member State. The rate is fixed for each Member State on a common basis, one aim being to avoid concealed subsidies. This is done for agriculture and fishery on the one hand and for all forestry industries on the other.

The individual countries are free - as the representative of the Commission has informed us - to include in the category of 'agricultural undertaking' activities falling partly under other sectors such as cattle-trading, which can then be incorporated in the agricultural scheme.

Calculation of VAT on inputs takes place every three years. The Committee on Budgets was unanimous in its support for the principle that these calculations should be made on a common basis in order to achieve the greatest measure of impartiality in the system.

Subsequently the Member States fix flat-rate percentages which are intended to offset prior taxation of agricultural undertakings and which must be applied to the agricultural supplies and services of farmers under the flat-rate scheme. The flat-rate offsetting percentages may not exceed 90% of the VAT on inputs as referred to above. Three years after the entry into force of the directive they may not exceed 80%, and six years after they may not exceed 70%.

According to the Commission representative the fixing of the first offsetting percentage at 90% (and not 100%) is inevitable since although national calculations may provide precise information on 'inputs' of agricultural undertakings, such as fertilizers, machines, fuels, etc., the 'outputs' also include elements which have to be taken into account. This refers particularly to the farmer's own consumption, where no distinction is possible between personal and intermediary consumption, and to services provided by farmers for each other and for third parties.

The following arguments are put forward for the 80% and 70% levels (the explanatory memorandum attached to the directive suggests that this also applies to the 90% rate): more farmers will gradually opt for treatment as normal undertakings. This will be especially true in the case of those who make higher investments, with the result that a smaller offsetting percentage may be deemed necessary for farmers remaining within the flat-rate scheme. Increasingly lower percentages are intended to encourage more and more farmers to abandon the flat-rate scheme.

The Commission believes that even with a 70% rate after the seventh year the majority of agricultural producers will come within this scheme.

Different points of view are tenable about the means proposed to encourage farmers to opt for the normal scheme.

The Committee on Budgets considers it questionable that those involved should receive (increasingly) less compensation than is compatible with the charge on inputs calculated officially for the group to which they belong. It would easily be looked upon as withholding what is theirs by right. The Committee on Budgets wonders whether it might not be fairer, if necessary, to calculate the charge annually to bring it more into line with actual conditions and to give the farmers 100% compensation. In conclusion, attention is drawn to the opinion of the Committee on Agriculture, whose conclusions have been adopted by the Committee on Budgets in the amendment to Article 27.

E. Special scheme for small undertakings (Art. 25 of the proposed directive)

29. The proposed scheme is a transitional one which may be applied at the discretion of the Member States. We agree with the Committee on Economic and Monetary Affairs that it is doubtful whether this transitional period can be so short. A case could even be made for a permanent scheme for small undertakings. After all, small entrepreneurs bear the heaviest burden under the VAT system, which can only work properly if both incoming and outgoing invoices are processed correctly. When drawing up a scheme for small undertakings, one must realise the heavy administrative burden connected with the levy of VAT for small undertakings, while bearing in mind the tax lost by allowing the special scheme for small undertakings and the saving made on the costs of checking and collection.

The proposed directive contains a clause to the effect that - until such time as 'fiscal borders are suppressed' - tax exemption should be accorded to taxable persons whose annual turnover does not exceed 4,000 u.a., with possible graduated tax relief in respect of turnovers under 12,500 u.a.

Such tax exemption naturally has implications, one being the forfeit of the right to claim deduction of VAT included in prices and no right to enter VAT on the outgoing invoice.

The Committee on Budgets has repeatedly debated the point whether the above turnover criterion is in fact correct.

The actual concession to small undertakings varies greatly in volume depending on the value added and the rate applicable. Comparisons of small undertakings with the same social level and administrative capacities etc. in the hairdressing trade and, for instance, food retailing show that one may have a turnover of 4,000 u.a. and the other many times that figure. The Community hardly has any food retailers, for example, whose turnover is below 4,000 u.a. Turnover is not a good basis for ensuring that comparable entrepreneurs come within the special scheme. The amount of tax payable would be a good basis, and would be more closely connected with the value added. However there was not complete unanimity in the committee on this point.

There was unanimity on the fact that the lower level was too low to have any real significance.

F. Taxability of immovable property transactions

(a) General Observations

30 The proposal is based on the principle that immovable property should be liable to VAT, as is already the case in several Member States. Inasmuch as immovable property is a production element, the tax scheme under which it comes influences the cost of the goods and services produced. Varying tax treatment of such investment goods in different Member States may effect conditions of competition between them. Within the Community the directive's aim is to guarantee tax impartiality by avoiding double taxation (the inclusion of goods or services in the VAT system means at the same time that the taxable person who uses them can deduct VAT and that the producer can also deduct VAT charged to him) and to generalize taxation of the final consumption stage.

Furthermore, fair distribution of the burden of own resources requires fair tax treatment (in respect of VAT) of immovable property in the Community.

(b) New buildings (before first occupied)

31. Immovable property in the form of buildings should be subject to VAT as products outside the economic cycle and available for private use.

For the purposes of VAT, residential buildings are deemed to have been consumed in a single transaction and as long as they remain within the private sector VAT will thenceforth no longer apply.

Concern was expressed in the Committee on Budgets about a possible rise in the price level of residential accommodation, especially subsidized housing, if such accommodation has not previously been liable to tax in any particular country and now becomes liable to tax by virtue of this directive. One must, however, not forget the possibility of deducting VAT paid on goods and services used in the building work. Whether there is on balance a rise or fall in the price level depends then on the tax categories applied to the goods or services. The Member States reserve the right to give tax support for housebuilding by applying lower rates of tax. (See also point 31 of this explanatory statement). Supplies of immovable property for commercial, industrial or agricultural use (to taxable persons) must also be taxed since there would otherwise be double taxation.

(c) Old buildings

32. Residential buildings are exempt from tax since they are goods which are deemed to have been 'consumed' at the time when they are first brought into use and thus to have been taxed with VAT at the final consumption stage. Exceptional provisions are made for cases in which residential buildings are transferred from the private sector to the industrial sector. Old buildings for industrial, commercial or agricultural use are taxed since transactions of such property usually take place between taxable persons. As the latter can deduct VAT already paid on the goods acquired, any cumulative effect is avoided.

(d) Letting of property

33. For the same reasons, taxation on the leasing and letting of immovable property is inevitable in the industrial and commercial sector, whilst, for social reasons, letting to private persons is exempted.

(e) Land

34. The committee has held repeated discussions on this point. The levy of VAT on supplies is connected with the creation of value added or with consumption by the receiver.

Land, of course, is neither produced nor consumed. This implies that transactions involving land in its natural state should not be liable to the tax. Article 14B of the proposed directive therefore exempts such transactions of unbuilt-on land, provided no building is erected on the land within four years of the transaction. Land on which work has been or is to be done is another matter (e.g. land ready for building, or land on which houses marked down for demolition are situated). If these were exempt the burden of VAT on the work would be absorbed in the price of the immovable property, thus involving cumulative taxation.

The Committee on Budgets subscribes to the principle that immovable property should be included in the VAT system but considers the distinction in Article 14(3)(c) first and second indent of the proposed directive in respect of land not prepared for construction, as to the existence of an undertaking to build within four years, is too artificial. Part of the sub-paragraph in question should be deleted so that building land means simply 'land prepared for construction, land on which an incomplete building or a building for demolition stands, and rights to build on top of an existing building'.

(f) Infrastructure work by local authorities

35. The committee discussed in detail the problem of the tax charge on works carried out by or on behalf of local authorities which are not sold but made available free of charge to the public, for example earth works, development of industrial sites and residential land, laying water pipes and sewers etc.

The full VAT charge which these local authorities would have to pay to the state could not therefore be passed on, thus upsetting the existing financial balance.

Several committee members look for the solution to this problem outside the VAT system by a change in the flow of money between the state and local authorities. Others - as in the proposed amendment to Art. 14(1) - would like to find a solution within the framework of the sixth directive by exempting supplies or services in connection with such works from VAT in accordance with Art. 14 of the directive. They accept the fact that the cumulative input tax would then still be contained in the corresponding prices, that the list of tax exemptions would be slightly lengthened, and that there would be effects on the conditions of competition in this sphere.

Avoidance of accumulation of VAT and other conveyancing charges

36. The Committee on Budgets proposes that the Council should decide that in cases where VAT is payable on immovable property there should not be at the same time further taxation on the legal transactions. This is intended to cover registration duties in particular. It goes without saying that this does not refer to estate duties or capital gains tax or other (often local) taxes levied on the possession or renting of immovable property.

G. Setting-up of a value added tax committee (Articles 29-31)

37. The proposed directive contains a large number of general principles and rules which have to be applied in a standard way. The method of application remains the responsibility of the Member States. Depending on feasibility - in the opinion of the Commission - it may prove necessary to harmonize or standardize certain regulations for the application of VAT, in order not only to create impartial conditions of competition between the Member States, but, above all, to guarantee fair distribution of the burden of the levy for own resources. It may happen that the measures to be applied have to be fixed at such short notice that the usual directive procedure would take too long. It is therefore proposed to set up a Committee on value added tax, as a public administrative body.

The Committee is to be composed of representatives from the Member States under the chairmanship of a representative of the Commission and its task will be to discuss any matters connected with VAT; it must be consulted in a number of specified instances. Article 31 lays down a procedure for the establishment of provisions which are 'necessary for applying this directive'. The procedure is as follows:

The Commission submits proposals. If the VAT Committee agrees to them the Commission adopts them. If the proposed provisions conflict with the opinion of the Committee, the Commission submits a proposal to the Council, which then takes a decision, acting by a qualified majority. If the Council does not reach a decision within three months the provisions are adopted by the Commission.

The Committee has discussed this subject too on several occasions. It could be asked how far the powers of the Community organs (the Commission and Committee) go. The collection of VAT will after all continue to be the responsibility of Member States, even though the Community is entitled to a relatively small part of the tax yield.

This is why it is not automatically clear why the form and promulgation of VAT implementation regulations should be the responsibility of Community organs. One's view here depends on the use made of the margin between the application of the sixth directive and the latitude which must be retained by Member States.

This means then that powers relating both to material liability to tax and to formal obligations in regard to the establishment, checking and collecting of the tax liability are being taken away from national parliaments and administrations and given either to the Commission and the Committee or the Commission alone. Your rapporteur wonders whether this is compatible with the third paragraph of Article 189 of the Rome Treaty which stipulates, in connection with the extent to which directives are binding, that the national authorities should be allowed to decide on the form and content of such directives. Perhaps it would be better if the directive specified those matters to which a Committee procedure should be applied.

The majority of the committee does, however, support the proposals.

VII. The uniform basis of assessment in the context of the creation of economic and monetary union
Further harmonization of value added tax

38. The harmonization of the tax rates is to be left until a later stage. The rates applied at present in the Member States cover a wide range, one of the main reasons for this being the varying importance of direct and indirect taxation.

Little mention is made of harmonization of rates in the proposal. It can be deduced from the ninth recital of the proposed directive that the harmonization proposed at present is far-reaching enough to make abolition of frontiers possible in due course. There is however nowhere any indication of how the Commission envisages the further harmonization of rates. The Council Resolution of 9 December 1969 mentioned the need for a very small number of rates. (In passing it may be noted that the Benelux VAT harmonization is directed towards rate harmonization, with a two-rate system);

Furthermore there is no direct stipulation that VAT percentages should not be allowed to move further away from the mean, i.e. that national changes in rate should only be permitted if they thereby come nearer the average in order to simplify harmonization of rates at a later stage.

We are given no indication of the Commission's long-term plans. This report does not pursue the matter which is only indirectly relevant. One gets the impression that the ultimate objective of the present directive is standardization of VAT rates. It has however transpired in discussions in the Sub-Committee on Tax Harmonization that the Commission does not consider that complete alignment of rates is necessary in order to abolish exemption of VAT on exports and levy of VAT on imports as long as the rates are very close to each other. It considers an approximation to within 3 points for the normal rate to be acceptable. Greater deviations would disturb retail trade in the vicinity of the frontier. It could be maintained that this is a new attitude which brings the abolition of frontiers nearer and means, on the other hand, that more will have to be done to bring rates closer to each other. Furthermore by dropping the requirement of full harmonization of rates it should be possible to leave national governments more latitude in Community VAT regulations.

VIII. Observations on individual articles

Article 2: Field of application

39. According to the explanatory memorandum the aim of the levy referred to in sub-paragraph 3 is to make it impossible, legally, to be a recipient of services supplied by a person established abroad and intended to be utilized within a Member State without those services having borne value added tax.

40. The view of the Committee on Budgets is that double taxation must also be avoided. It does not appear that the proposal will ensure this. The proposed amendment to this article is intended to remedy this situation.

Article 3: Territory

41. A Community consultation and decision-taking procedure is needed to maintain a situation whereby a Member State does not consider the whole of its national territory to be its territory for the purposes of VAT on the date when the regulation is passed.

42. However, in the opinion of the committee the periods stated are too long. The purpose of the amendment to this article is to reduce them without making them unreasonably short.

Title IV: Taxable persons (See Explanatory Statement F(e) para. 34)

Title V: Taxable transactions

Article 5 (1) sub-paragraph b: Supply of goods

43. Article 5 (1) sub-paragraph b makes all interests or shares giving the owner de jure or de facto rights of possession over immovable property or part thereof equivalent to the property to which they relate.

44. According to oral explanations given by the Commission's representatives this provision refers to situations which arise especially in France and Italy, in respect of immovable property societies (joint possession of a flat in which the shareholders also live). The Committee on Budgets, whilst subscribing to this provision, believes that the wording should be more specific about this aim.

Article 5(2) sub-paragraph b: (See Explanatory Statement paragraph 51)

Article 7: Supply of services

45. The exemptions provided for in Article 14 may give rise to a curious situation. An exempted taxable person is unable to deduct VAT on services supplied. This may lead the taxable person (e.g. a hospital or group of hospitals) to arrange its own services (window-cleaning and laundry) in order to avoid paying VAT, thus cutting out the service undertakings. One objective of VAT, however, is complete impartiality. The intention of the amendment is to make it possible for Member States to designate such arrangements as supplies of services within the meaning of the law where there are serious disturbances of competition. The effect will usually be preventive. In order to avoid excessive deviations among Member States there must in such cases be prior consultation.

Title VI: Place of taxable transactions

Article 10: Supply of services

46. It is conspicuous that no provisions are made to cover the place at which a service is obtained within a country.

Title VIII: Taxable amount

Article 12A (1)(a): The proposed amendment is intended to link up with the Second Directive (Article 8a)

47. This text does nothing to clarify the text of the Second Directive (Article 8a). Moreover subsidies provided, for example, from government or private funds to enable an undertaking to supply services or goods at lower prices are difficult to distinguish in the taxable amount.

48. Also, it is not entirely satisfactory to base calculations on the open market value as proposed in (b) since the transaction would then have to take place under conditions of 'fair competition' - which would usually be difficult to judge.

Paragraph A (1)(b)

49. The aim of the amendment is to split paragraph 1b of the Commission's proposal. The new sub-paragraph b would also confirm the provisions of the Second Directive. When an entrepreneur consumes his own goods or services in private it would seem fairer to base the taxable amount on the purchase price or cost price rather than on the open market value, for both practical and psychological reasons.

50. The new sub-paragraph (c) covers transactions as referred to in Article 7 (2) where the 'open market value' applies.

Paragraph A (1)(c)

51. Deletion of this sub-paragraph is proposed since it is not necessary to equate leasing with the supply of services. This would do away with certain technical complications, without depriving the tax authorities of revenue since the leasing transaction would be split up into a letting transaction and a sales transaction.

Paragraph A (2)(b), and addition (f) to A (3)

52. In view of the exemption provided for in Article 14 B (a) for insurance, etc. it is proposed that costs of insurance should not be included in the taxable amount in these clauses either.

Paragraph A (5) new

53. In the event of the transfer of goods which were being used as an investment by an enterprise not exempted from VAT the supply is taxable insofar as tax deduction is allowable on the goods. Article 12A on the taxable amount within the territory of the country does not, however, contain a single provision to cover cases in which a pro rata deduction is allowed for the transfer of goods. It is therefore necessary to add a fifth clause, as proposed in this amendment.

Title IX: Rates

Article 13 (1)

54. This paragraph includes a provision to the effect that the rate to be applied is the one in force on the date when the chargeable event takes place. This provision has our approval but could give rise to difficulties in the event of changes in rates during the construction of a building.

55. No provision has been made for this eventuality. It is therefore proposed that a provision should be added empowering Member States to make transitional arrangements.

Title X: Exemptions

Article 14A (1) (a)

56. If one accepts the view that the number of exemptions in the case of which previous VAT is not deductible (as referred to in this article) should be kept as small as possible it may be asked why telecommunications services are exempted. The burden of previously paid VAT incorporated in telephone and telex rates cannot be deducted by

industry. For practical reasons postal services should remain exempt, but it is proposed that the exemption on telecommunications should be dropped. In view of the high investments in Member States your rapporteur feels that if a lower rate were applied, telephone service charges, for instance, inclusive of VAT, could drop considerably.

Article 14A (1) (1) new (See Explanatory Statement F (f) paragraph 35)

Paragraph B (b)

57. It is proposed that the wording should be such as to put traditional undertakers' services and crematoria on the same footing and to make both exempt. The proposed directive does not exempt crematoria.

Paragraph B (c)

58. It is proposed that the exemption should apply to the installation and maintenance of monuments to victims of tyranny as well as to the victims of war.

Paragraph B (h)

59. The aim of this amendment is to provide a more precise description of what is meant by gold to be used as coin. This article makes such gold exempt under the terms of Article 14 (without the right to deduct) thus making application of a zero rate impossible. This will cut down distortion of international competition.

Paragraph B (m) new

60. Although the Committee on Budgets agrees that the services supplied by members of the professions should be liable to VAT, it proposes that the services of lawyers and officials of a like nature, the purpose of which is to seek justice for private persons should be taken as an exception. The people involved are very often in a lower income bracket, and their recourse to law would be made more difficult if the services mentioned above were liable to VAT. The amendment's aim is therefore particularly social at a time when laws are becoming increasingly complicated and lawsuits increasingly difficult. The proposal does, however, have the disadvantage that lawyers - who have asked for this exemption themselves - will have to make a distinction in their administration between exempt and non-exempt transactions coming within different categories of taxation.

Title XI: Deductions

Article 17 (2) (a)

61. The invoice plays a major role in the VAT system. If goods and services are intended for use in chargeable activities, and taxable

person is entitled to deduct from the amount of tax payable the VAT invoiced to him in respect of goods, etc. supplied.

62. He may, however, also be invoiced in respect of goods to be supplied by him. The aim of the proposed amendment is to bring this under the entitlement to deduction. It does not represent an amendment to the objective of the proposed directive, but does put things in more precise terms.

Article 17 (4)

63. This article governs the right to deduct which must be accorded by Member States to every taxable person established in another country who supplies no goods or services within its territory. This provision, as contained in the motion for a resolution, has our full support. However, an amendment is proposed in respect of the condition contained in the proposed directive to the effect that the application for refund must amount to at least 100 u.a.

64. The 100 u.a. limit is fairly high, at least for small undertakings. On the other hand there must be a limit in order to avoid applications for minimal refunds. A 50 u.a. limit seems to be reasonable to maintain the balance between the financial interest involved on the one hand and the increased work entailed for the taxable person and the tax administrations.

65. It also seems worthwhile specifying that the invoices may relate to one whole calendar year so that the present text cannot be interpreted as meaning that invoices must relate to the same fiscal period.

Article 17 (6)

66. The motion for a resolution states that great caution is called for in excluding the deduction on goods and services which although used in the ordinary course of business may also be used for private purposes.

This article contains provisions regulating this matter. There is no objection to emphasis being laid on the satisfaction of personal requirements in respect of restaurants, food, drink and entertainment.

Accommodation, lodging and passenger transport, however, belong to a different category. In many cases they represent a substantial part of the total operating costs of an undertaking while at the same time it cannot be maintained that they result in a saving in private expenditure. The proposed amendment is that expenditure of this kind should not be non-VAT deductible.

This article also stipulates that expenditure on luxuries (b) and entertainment expenditure (c) do not qualify for VAT deduction.

There should be a clearer indication of exactly what is meant by these terms.

Article 18 (2)

67. It is not fair to allow the tax administrations a generous amount of time to make up the final assessment whilst restricting the time allowed for the taxable person to exercise his right to deduct. Particularly in cases where there is doubt whether a particular transaction qualifies for exemption or not, the taxable person must at least be able to deduct previously paid VAT, if, for example, a check shows that the transaction is not exempted.

Article 18 (3)

68. Where for a given tax period the amount of authorized deductions exceeds the amount of tax due the excess should be repaid within a short period. This is very important for undertakings involved in export and seasonal business.

The proposed directive makes provision for the excess to be carried forward to the following fiscal period. The amendment proposed limits the amount which may be carried forward in this way to amounts not exceeding 10 u.a. Larger amounts must be refunded

as rapidly as possible to the person entitled to them.

Title XII: Persons liable for payment of tax

Article 21 (1) (a)

69. This article states that agents of taxable persons established in another country are also liable to VAT. However, the present text is much too broad. The agent of a foreign taxable person cannot know to what tax he may be liable in cases where the foreign taxable person has also carried out transactions in his home country of which the agent is unaware. That is why some limitation - as proposed in the amendment - seems desirable.

Title XIV: Obligations of persons liable for payment

Article 23 (3) (b)

70. This article states that the following must be entered separately on the invoice which plays such an important role in the VAT system: the price exclusive of VAT, taxation at each different rate, and where applicable, the exempted amount. Whilst agreeing to this it must be said that in the case of invoices involving small amounts such as often arise in over-the-counter shop sale to entrepreneurs this requirement could be dropped for the sake of simplicity. This is the proposal made in the first part of the amendment.

71. The purpose of the second addition is to ensure that the provision contained in Article 12A (1) is properly implemented. Under this provision the taxable amount in the sale of certain buildings may be the difference between the selling price and the purchase price. Under Articles 23 (3) (b) the amount of tax must be entered on the invoice. The combination of these two provisions has the following unfortunate effects:

a. the buyer can work out the profit margin by calculating back from the tax amount shown on the invoice to obtain the difference between the selling price and the purchase price.

b. in further supplies the concession contained in Article 12A (1) (d) will be lost by reason of the 'catch-up' effect, as further taxable persons will only be able to deduct the VAT added to the invoice by the first taxable person.

The proposed amendment would obviate these consequences.

Article 23 (4)

This paragraph contains provisions concerning:

1. The tax period

72. The amendment proposes that the Member States shall be able to take a quarter, as well as a month, as a tax period.

This may be of great benefit for administration and audit activities carried out by industry and tax administrations. It must also be possible to take a half-year or full year in exceptional cases.

Paragraph 5 can be deleted.

2. Information to be entered on the tax return

73. This is a point of major importance. It is intimately related to the way in which the EEC portion of VAT is levied (for the Community's own resources).

This was discussed in the general observations.

74. Although other possibilities are certainly worth considering the rapporteur has, for the purposes of this article, accepted the Commission's view, especially since the Commission has stated that in any case most Member States require disclosure of turnover.

Article 23 (10)

75. Taxable persons who make only exempt supplies may be released from administrative obligations. Taxpayers who mainly make taxed supplies may also make exempt transactions. It seems advisable to stipulate that Member States should also be able to release the latter from

obligations. This is the purpose of the amendment.

Title XV: Special schemes

Article 25: Small undertakings

76. The Committee on Budgets considers the limits referred to in para.1 to be too low. The motion for a resolution refers to this point. See also the general observations.

Article 25 (2)

77. The letting of immovable property is not taken into account for the assessment of turnover.

This makes it impossible for many thousands of private persons who let a garage, storehouse or house to a taxable person to be considered at their own request for the scheme for small undertakings. This amendment is intended to cut down their administrative burden and the amount of checking to be done by the tax administration.

Article 25 (3)

78. By going into greater detail the amendment would prevent small plumbers, decorators and other self-employed persons who work on buildings from being excluded from the special scheme for small undertakings by virtue of the nature of their work.

Article 27 (4) and (5): (See Explanatory Statement paragraph 28)

Alteration to Annex C of the proposal for a directive:

See Explanatory Statement paragraph 28 and amendment to Article 27.

OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS

Draftsman: Mr F. Leenhardt

On 14 September 1973 the Committee on Economic and Monetary Affairs appointed Mr Leenhardt draftsman for an opinion.

It discussed the draft opinion at its meetings of 11 October, 5 November and 30 November 1973 and adopted it unanimously on 30 November.

The following were present: Mr Lange, chairman; Mr Notenboom, vice-chairman; Sir Brandon Rhys Williams, vice-chairman; Mr Leenhardt, draftsman of the opinion; Mr Artzinger, Mr Burgbacher, Mr Harmegnies, Lord Reay, Mr Scholten, Mr Starke, Mr Thornley, Mr Yeats.

1. The purpose of the sixth directive is to standardize the basis of assessment of VAT pursuant to the Council decision of 21 April 1970, which provided for the replacement of the financial contribution from each Member State by the Communities' own resources.

Pursuant to this decision, these own resources are to be derived, in particular, from the application of a Community rate to a national assessment basis determined in a uniform manner for all the Member States.

The creation of a uniform basis of assessment is the second stage in the harmonization of legislation on turnover taxes. The general introduction of the VAT system, in accordance with the first two directives on harmonization, marked the end of the first stage. A third stage has yet to be undertaken, namely approximation of the rates, which will raise the delicate problem of allocation between direct and indirect tax.

2. The economic effects of standardization of the basis of assessment are important inasmuch as the field of application is extremely wide, the lists of exemptions fairly diverse and the special arrangements very varied. However, the effects on prices may well be more limited than in the stages of general introduction of VAT and approximation of tax rates.

This is due, in particular, to the fact that, Article 28 of the sixth directive dealing with transitional provisions, does not call for the abolition within a very short time of the zero rating on foodstuffs in the countries which have adopted this system. Under certain conditions, this system can be maintained until a date fixed by the Council on a proposal from the Commission, but which may not be later than that on which the charging of tax on imports and the remitting of tax on exports in trade between Member States are abolished.

3. The importance of the sixth directive can be measured by the fact that the proposal will not only apply to the EEC's share of VAT revenue, but also to the much greater shares of the different Member States. Thus, in addition to the definition of a uniform basis for determining own resources, the directive takes an important step towards harmonization of the national tax systems, the inter-penetration of economies and the achievement of economic and monetary union.

4. The definition of the taxable person is designed so that the field of application of VAT extends to all economic activities, wherever they take place, and all transactions which are in the nature of such economic activities but which may be carried out separately or occasionally.

The tax on these transactions is intended to be impartial, on the assumption that a VAT system achieves maximum impartiality when the tax is levied as widely as possible and its field of application embraces in principle all supplies and imports of goods as well as all services provided.

The taxing of the professions will create difficulties in some Member States.

5. The place of taxable transactions must not give rise to conflicts of competence between Member States, particularly as regards the provision of services. For reasons of simplicity, the Commission has fixed the place for supplies of services as the place where the supplier has established the seat of his business activities and not the place where the service has been rendered.

6. The Commission proposes that the chargeable event occurs at the time when the goods are delivered or the services are performed.

To avoid difficulties of inspection and a time lag in revenue receipts, the Commission has retained the principle adopted in the second directive whereby the chargeable event occurs and the tax becomes chargeable at the same time, while allowing the Member States to provide for the tax to become chargeable when the supply is invoiced or paid for.

7. The basis of assessment must be harmonized, for the application of the Community rate of VAT to taxable transactions to produce comparable results in all Member States. The second directive used the concept of a 'consideration' which simply means the price. It seemed more logical to retain this concept of price when a sum of money is the sole consideration for the transaction and to use the concept of 'open market value' when the sum of money is not the sole consideration for the supply of goods or services.

8. The definition of a uniform basis of assessment to ensure equality in the collection of the Communities' own resources in the different Member States implies a uniform definition of the exemptions. The sixth directive therefore departs from the freedom given to Member States by the second directive in regard to exemptions, subject to consultation.

The list of exemptions has been drawn up having regard, on the one hand, to the exemptions already existing in Member States and, on the other, to the need to keep the number of exemptions as small as possible in a general system of taxation.

9. An effort to achieve harmonization must also be made in regard to the system of deductions, as this has an effect on the true level of receipts. Article 17 repeats the deductions provided for in the second directive. It satisfies a claim that is often made, namely the reimbursement by each Member State to taxable persons established abroad of the VAT invoiced to them in the said country. On the other hand, the proposal excludes from the right to deduct, the expenditure which it is difficult to apportion between 'business' and 'private'.

10. Article 23 concerning obligations of persons liable for payment, introduces a completely new provision: the taxable person must not only declare the amount of taxes due and the deductions to be made, but also the total value of the transactions covered by these taxes and deductions and the total value of the exempted transactions. In practice, the fiscal administrations must have the necessary means at their disposal to enable them to calculate the share of the Community's own resources to be levied from VAT revenue.

11. Special arrangements are provided for small undertakings which could be subjected to VAT without great difficulties. Subject to a consultation procedure, the Member States may fix limits and conditions for exemption and graduated tax relief. The criterion adopted is the turnover, but the ceilings laid down by Article 25 are fairly low compared with those applied in several Member States. It would seem desirable to rais them. Each Member State may adopt simplified methods of imposing and collecting the tax.

The Commission also makes these provisions transitional, as the co-existence of different national systems would hinder the abolition of tax frontiers. It is doubtful whether this transitional period will be a short one.

12. There is provision for a flat-rate scheme for farmers who have not opted for the normal system of application of VAT. It is designed to give these producers flat-rate compensation for the deductible tax on their purchases and services rendered to them. This provision is likely to constitute an encouragement for capital investment.

It seems that, from the point of view of the directive, the common flat-rate scheme is also considered to be transitional since, at the end of the sixth year, the Commission must submit new proposals to the Council.

13. Finally, Article 29 sets up a Value Added Tax Committee composed of representatives of the Member States with a representative of the Commission as chairman.

As the Member States are responsible for the conditions of application of the general principles embodied in the directive, this committee has been set up because it may prove necessary to harmonize some of these conditions.

The purpose is to establish fair conditions of competition between the Member States, and to ensure that own resources accruing from VAT are collected in an equitable and balanced manner.

A simplified and accelerated Community procedure seems justified for urgent technical measures not falling within the legislative procedure.

Similar committees have already been provided for in other directives, in particular in the agricultural and customs sectors.

14. It is a pity that this proposal for a sixth directive was not drawn up earlier, since the difficulties which the Member States will encounter in adapting their present VAT system will prevent them from completing this operation by 1 January 1975 as provided for in Article 1.

It may be felt that the Commission has been too ambitious in laying down provisions for a large number of particular cases and reducing the flexibility which distinguished the previous directives. But is there not an obligation at this stage to make a choice between flexibility and the definition of a uniform basis of assessment for the creation of the Communities' own resources?

The sixth directive has been described as a proposal for a European law on VAT. It makes a very important contribution to the elimination of tax barriers and distortions which obstruct fair competition. It accelerates the achievement of freedom of movement of persons, goods, services and capital and brings us closer to the abolition of tax frontiers and the achievement of economic and monetary union.

Opinion of the Committee on Agriculture

Draftsman: Mr C. HEGER

Following its request, the Committee on Agriculture was authorized to submit to the Committee on Budgets as the Committee responsible an opinion on the proposal from the Commission of the European Communities to the Council for a sixth directive on the harmonization of legislation of Member States concerning turnover taxes - common system of value added tax: uniform basis of assessment (Doc. 144/73).

The Committee on Agriculture appointed Mr HEGER rapporteur at its meeting of 24 January 1974.

It considered the proposal for a directive at its meeting of 4 February 1974 and adopted this opinion by 13 votes to 1 with 3 abstentions.

The following were present: Mr Laban, acting chairman, vice-chairman of the Committee, Mr Héger, draftsman of the opinion, Mr Baas, Mr Cipolla, Mr Creed, Mr Frehsee, Mr Früh, Mr Gibbons, Mr John Hill, Mr Kavanagh, Mr de Koning, Mr Lefebvre, Mr Liogier, Mr Martens, Mrs Orth, Lord St Oswald and Mr Scott-Hopkins.

1. The progress of the Community towards economic and monetary union has become dangerously slow.

2. However, this stagnation must not cause a slackening of efforts to bring about harmonization in the financial and tax sectors.

3. Furthermore, with the Community entering a new phase when it will have its own resources, it is essential that the basis of assessment for the contribution by each of the partners should once again be made uniform.

4. Meanwhile, it has to be recorded that monetary measures taken by certain Member States during the last few years and even in recent times have not been conducive to the free operation of the agricultural market.

5. The movement of goods is impeded by manifold obstacles in the form of compensatory payments, levies, subsidies and aids, direct or indirect, furnished by the State or the Community.

6. At present VAT likewise serves as a prop to these palliatives.

7. Quite apart from the complications caused by the implementation of these procedures, there is reason to fear both distortion of competition conditions and the possibility of fraudulent practices.

8. In its Memorandum on the agricultural policy, the Commission recommends simplification of the regulations and economy measures in the agricultural sector.

9. These laudable aims are not to be found in the 'Proposal for a tenth Council directive on harmonization of legislation in Member States relating to turnover taxes'.

10. This is particularly true of the agriculture, forestry and fishery sectors.

11. In most Member States agricultural producers were given the option of a flat-rate system.

12. There were, however, marked differences in the methods employed (see table in Annex).

13. The present proposal incorporates an attempt at harmonized coordination in Article 27(2) and (3) which give the definitions essential for establishing the rules to apply in respect of the flat-rate system.

14. This terminology and the definitions contained are such as to facilitate comparison and alignment of the various legislations and it is desirable that they be adhered to.

15. On the other hand there is less justification for limiting to 90% of the levels of VAT input charge the amounts which States have to fix under paragraph 4; this restriction is only in keeping with the future scheme of things outlined by the Commission in paragraph 5.

16. The main concern is to penalize farmers who have opted for the flat-rate system.

17. They are further penalized by the first and second indents of the same paragraph 5 which reflect a fixed desire to progressively eliminate flat-rate farmers and have them adopt what the proposal calls the 'normal system'.

18. In doing this, the Commission is departing through special provisions from the objectives of simplification and economy which it proclaimed in its Memorandum.

19. If the measures advocated by the Commission came into force, farmers would have to keep accounts and engage in clerical procedures for which most of them have been neither trained nor prepared.

20. This would be particularly to the detriment of farmers with small and medium-sized holdings since they would either have to rely on third parties to fulfil their obligations for them or they would have to resign themselves to a reduction of 10, 20 and then 30% in the compensation they received.

21. The scrutiny and control of thousands of operations by national and Community administrations would involve considerable staff and operational expenditure.

22. Clear demarcation of the field of application of VAT in agriculture, forestry and fishery, a lucid definition of persons liable to tax and a uniform method for the calculation of the flat rate would represent real progress.

23. They would constitute a major milestone in harmonization pending definitive harmonization in the form of uniform rates applied throughout the Community.

24. These are the reasons why the Committee on Agriculture is of the opinion that the following amendments should be made to the proposal:

Proposed amendments:

- Article 27(4) first sub-paragraph; '90%' to be replaced by '100%'.
- Article 27(5) delete the whole paragraph and change the numbers of the remaining paragraphs of Article 27 accordingly.

ANNEX

VAT APPLICATION SYSTEM IN CERTAIN COMMUNITY COUNTRIES[1]

I OPERATIONS AFFECTED BY THE SPECIAL AGRICULTURAL SCHEME

NETHERLANDS	GERMANY	FRANCE
Transactions by farmers Extensions: - sales of fruit by purchasers of picking fruits, - sales of compost by farmers, - optionally, sales of animals by dealers. Exceptions - sales of their products by sea fishers and oyster farmers, - sales by growers of flowers, flower bulbs and ornamental plants. De facto Exceptions: - exports	- deliveries and other services by farmers in return for payment, - own consumption. Extensions: Processing or allied operations if they are classified agricultural for income tax purposes. Exceptions: - industrialized animal production undertakings; - farmers who have opted for the special scheme for smallholdings. De facto Exceptions: - exports	Sales and deliveries by farmers Extensions: Operations forming part of normal and usual agricultural practices. Exceptions: - operations compulsorily subject to VAT - sales by trade methods, - sales of industrially processed products. - supply of services - deliveries to other farmers who themselves benefit from the special scheme, except in the stock farming sector.

[1] Source: 'Study of the special problems posed by application of VAT in the farming sector in the countries of the European Community' by Mr P. Vernand.

LUXEMBOURG	BELGIUM	COMMISSION
- deliveries of goods - services, classed as agricultural services. Extensions: Services habitually rendered supplementing farming and forestry activities. Exceptions: - exports, - operations carried out by farmers' associations, - operations carried out for the benefit of other farmers not subject to the normal VAT scheme.	- deliveries of goods produced or grown by the farmer - supplies of services in implementation of growing or breeding contracts, Extensions: - primary processing, - ancillary services, - supplies of goods used in farming etc. Exceptions: - resale of purchases - deliveries of processed products - deliveries on the wholesale or retail market - retail or door-to-door deliveries or deliveries in specially equipped premises. - deliveries of goods or services not subject to the 6% rate - exports - transactions for the benefit of farmers not subject to the normal system of VAT	Transactions carried out by farmers in respect of agricultural products listed in Annex B of the draft directive: in fact, deliveries and imports of listed goods. Services are not involved. Exceptions: - farmers' associations, - farmers subject to VAT for other transactions exceeding a certain amount. - optionally, certain categories of farmers.

II AGRICULTURAL PRODUCERS

NETHERLANDS	GERMANY	FRANCE
Persons falling within the categories of farmer, stock-breeder, horticulturist or sylviculturist, in the normal sense of the terms,	Persons in occupations connected with agriculture or forestry: agriculture wine-growing, horti-culture, seed-growing, breeding or keeping livestock, freshwater fishing, fish-farming, beekeeping, allied occupations in support of agriculture or forestry.	Persons obtaining produce in the course of, or as a result of, a vegetable or animal production cycle.

LUXEMBOURG	BELGIUM	COMMISSION
Persons in occupations falling within the categories of agriculture or forestry: agriculture, forestry, wine-growing, horticulture, seed-growing market-gardening, fruit-growing, nurseries, greenhouses, stock-breeding and fattening in direct conjunction with soil cultivation, beekeeping.	Taxable persons occupied in: general farming, market gardening growing fruit, vegetables and ornamental plants, mushroom growing, seed and plant growing, wine-growing, breeding cattle, poultry and rabbits, beekeeping, nurseries, forestry	A farmer is any person occupied in the production activities listed in Annex B to the draft directive.