COUNCIL DIRECTIVE 94/76/EC

of 22 December 1994

amending Directive 77/388/EEC by the introduction of transitional measures applicable, in the context of the enlargement of the European Union on 1 January 1995, as regards value added tax

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the 1994 Accession Treaty, and in particular Articles 2 and 3 thereof, and the 1994 act of Accession, and in particular Article 169 thereof,

Having regard to the proposal from the Commission,

Whereas, subject to the special provisions set out in Chapter IX of Annex XV to the Act of Accession, the common system of value added tax is to apply to the new Member States as from the date on which the Accession Treaty enters into force;

Whereas, as a result of the abolition on that date of the imposition of tax on importation and remission of tax on exportation in trade between the Community as constituted at present and the new Member States, and between the new Member States themselves, transitional measures are necessary to safeguard the neutrality of the common system of value added tax and prevent situations of double taxation or non-taxation;

Whereas such measures must, in this respect, meet concerns akin to those that led to the measures adopted on completion of the internal market on 1 January 1993, and in particular the provisions of Article 28n of Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turn-over taxes — Common system of value added tax: uniform basis of assessment [1];

Whereas, in the customs sphere, goods will be deemed to be in free circulation in the enlarged Community where it is shown that they were in free circulation in the current Community or in one of the new Member States at the time of accession; whereas conclusions should be drawn from this, particularly for Article 7 (1) and (3) and Article 10 (3) of Directive 77/388/EEC;

Whereas it is necessary in particular to cover situations in which goods have been placed, prior to accession, under one of the arrangements referred to in Article 16 (1) (B) (a) to (d), under a temporary admission procedure with full exemption from import duties or under a similar procedure in the new Member States;

Whereas it is also necessary to lay down specific arrangements for cases where a special procedure (export or transit), initiated prior to the entry into force of the Accession Treaty in the framework of trade between the current Community and the new Member States and between those Member States for the purposes of a supply effected prior to that date by a taxable person acting as such, is not terminated until after the date of accession,

HAS ADOPTED THIS DIRECTIVE:

Article 1

In Directive 77/388/EEC, the following Title and Article shall be inserted:

'TITLE XVIc

Transitional measures applicable in the context of the accession to the European Union of Austria, Finland and Sweden

Article 28p

1. For the purpose of applying this Article:

— 'Community' shall mean the territory of the Community as defined in Article 3 before accession,

— 'new Member States' shall mean the territory of the Member States acceding to the European Union by the Treaty signed on 24 June 1994, as defined for each of those Member States in Article 3 of this Directive,

— 'enlarged Community' shall mean the territory of the Community as defined in Article 3, after accession.

2. When goods:

— entered the territory of the Community or of one of the new Member States before the date of accession, and

— were placed, on entry into the territory of the Community or of one of the new Member States,

[1] OJ No L 145, 13. 6. 1977, p. 1. Directive as last amended by Directive 94/5/EC (OJ No L 60, 3. 3. 1994, p. 16).