II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE 93/89/EEC

of 25 October 1993

on the application by Member States of taxes on certain vehicles used for the carriage of goods by road and tolls and charges for the use of certain infrastructures

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 75 and 99 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas elimination of distortions of competition between transport undertakings in the Member States calls for both the harmonization of levy systems and the establishment of fair mechanisms for charging infrastructure costs to hauliers;

Whereas these objectives can be achieved only in stages;

Whereas a degree of harmonization of fuel excise duty has been achieved through adoption of Council Directives 92/81/EEC of 19 October 1992 on the harmonization of the structures of excise duties on mineral oils (4) and 92/82/EEC of 19 October 1992 on the approximation of the rates of excise duties on mineral oils (5);

Whereas under present circumstances the adjustment of national levy systems should be confined to commercial vehicles of more than a certain gross laden weight;

Whereas for this purpose minimum rates should be set for the vehicle taxes currently applied by the Member States or any which might succeed them;

Whereas some Member States will have to raise substantially the level of vehicle tax currently applied; whereas, to enable adjustments to be made progressively, provision should be made for a transitional period during which those Member States may apply reduced rates;

Whereas certain local domestic transport operations with little impact on the Community transport market are at present subject to reduced rates of vehicle tax; whereas, in order to ensure smooth transition, Member States should be authorized to lay down temporary derogations from minimum rates;

Whereas Member States should be permitted to apply reduced rates or exemptions in the case of vehicles whose use is not liable to affect the Community transport market;

Whereas, in order to make allowance for certain special situations, a procedure should be laid down whereby Member States may be permitted to maintain further exemptions or reductions;

Whereas existing distortions of competition cannot be eliminated solely by harmonizing taxes or excise duties but whereas, until technically and economically more

(1) OJ No C 79, 26. 3. 1988, p. 8,
OJ No C 75, 20. 3. 1991, p. 1 and
OJ No C 311, 27. 11. 1992, p. 63.
(2) OJ No C 158, 26. 6. 1989, p. 519,
OJ No C 150, 15. 6. 1992, p. 324 and
OJ No C 21, 25. 1. 1993, p. 522.
(3) OJ No C 208, 8. 8. 1988, p. 32,
OJ No C 159, 17. 6. 1991, p. 21 and
OJ No C 19, 25. 1. 1993, p. 74.
(4) OJ No L 316, 31. 10. 1992, p. 12.

(5) OJ No L 316, 31. 10. 1992, p. 19.

appropriate forms of levy are in place, such distortions may be attenuated by the possibility of retaining or introducing tolls and of introducing motorway user charges and, under certain conditions, other road user charges;

Whereas tolls and user charges should not be discriminatory, entail excessive formalities or create obstacles at internal borders; whereas the rates of user charges should be based on the duration of the use made of the infrastructure in question;

Whereas, in order to ensure that user charges and tolls are applied homogeneously, certain rules for determining their manner of application should be laid down, such as characteristics of infrastructure to which such user charges and tolls are applicable, the maximum rate of user charges and the general provisions to be complied with;

Whereas in this context two or more Member States may cooperate for the purpose of introducing a common system of user charges, subject to compliance with some additional conditions; whereas such a system may take account of the special geographical and economic situation of hauliers of certain Member States, aggravated in some cases by political unrest in certain third countries;

Whereas a strict timetable should be set for reviewing the provisions of this Directive and considering adjustments to them, if necessary, for the purposes of a more technical levy system,

HAS ADOPTED THIS DIRECTIVE:

General provisions

Article 1

Member States shall, if necessary, adjust their systems of vehicle taxes and for tolls and user charges in accordance with the provisions of this Directive.

This Directive shall not affect vehicles carrying out transport operations exclusively in the non-European territories of the Member States.

It shall also not affect vehicles registered in the Canary Islands, Ceuta and Melilla, the Azores or Madeira and carrying out transport operations exclusively in those territories or between those territories and respectively, mainland Spain and mainland Portugal.

Article 2

For the purpose of this Directive:

— 'motorway' means a road specially designed and built for motor traffic, which does not serve properties bordering on it, and which:

  (i) is provided, except at special points or temporarily, with separate carriageways for the two directions of traffic, separated from each other either by a dividing strip not intended for traffic or, exceptionally, by other means;

  (ii) does not cross at grade with any road, railway or tramway track, or footpath;

  (iii) is specifically signed as a motorway,

— 'toll' means payment of a specified amount for a vehicle travelling the distance between two points on the infrastructure referred to in Article 7 (d); the amount shall be based on the distance travelled and on the category of the vehicle,

— 'user charges' means payment of a special amount conferring the right for a vehicle to use for a given period the infrastructures referred to in Article 7 (d),

— 'vehicle' means a motor vehicle or articulated vehicle combination intended exclusively for the carriage of goods by road and with a maximum permissible gross laden weight of not less than 12 tonnes.

Vehicle taxation

Article 3

1. The vehicle taxes referred to in Article 1 are as follows:

— Belgium: taxe de circulation sur les véhicules automobiles/verkeersbelasting op de autovoertuigen,

— Denmark: vægtafgift af motorkøretøjer m.v.,

— Federal Republic of Germany: Kraftfahrzeugsteuer,

— Greece: Τέλη κυκλοφορίας,

— Spain:

  (a) impuesto sobre vehículos de tracción mecánica

  (b) impuesto sobre actividades económicas (solely as regards the amount of the levies charged for motor vehicles),

— France:

  (a) taxe spéciale sur certains véhicules routiers

  (b) taxe différentielle sur les véhicules à moteur,

— Ireland: vehicle excise duty,

— Italy:

  (a) tassa automobilistica

  (b) addizionale del 5 % sulla tassa di automobilistica,

— Luxembourg:

  taxe sur les véhicules automoteurs,

— Netherlands:

  motorrijtuigenbelasting,

— Portugal :
  (a) imposto de camionagem
  (b) imposto de circulação,
— United Kingdom : vehicle excise duty.

2. Member States which replace any tax listed in paragraph 1 with another tax of the same kind shall notify the Commission, which shall make the necessary amendments.

Article 4

Procedures for levying and collecting the taxes referred to in Article 3 shall be determined by each Member State.

Article 5

As regards vehicles registered in the Member States, the taxes referred to in Article 3 shall be charged solely by the Member State of registration.

Article 6

1. Whatever the structure of the taxes referred to in Article 3, Member States shall set the rates so as to ensure that the tax rate for each vehicle category or subcategory referred to in the Annex is not lower than the minimum laid down in that Annex.

2. Until 31 December 1997 France, Greece, Italy, Portugal and Spain shall be authorized to apply rates that are lower than, but not less than 50 % of, the minima laid down in the Annex.

3. Member States may apply reduced rates or exemptions for

— vehicles used for national or civil defence purposes, by fire and other emergency services, and by the police, and vehicles used for road-maintenance ;
— vehicles which travel only occasionally on the public roads of the Member State of registration and are used by natural or legal persons whose main occupation is not the carriage of goods, provided that the transport operations carried out by these vehicles do not cause distortions of competition and subject to the Commission's agreement.

4. Subject to the review mentioned in Article 12, Member States apply until 1 July 1998 special derogations for vehicles with a maximum of three axles engaged solely in national local transport.

Application of these derogations shall be evaluated on a regular basis by the Commission which shall report to the Council annually.

5. (a) The Council acting unanimously on a proposal from the Commission may authorize a Member State to maintain further exemptions from or reductions in taxes on vehicles on the grounds of specific policies of a socio-economic nature or linked to that State's infrastructure. Such exemptions or reductions may apply only to vehicles registered in that Member State which carry out transport operations exclusively inside a well-defined part of its territory.

(b) Any Member State wishing to maintain such an exemption or reduction shall inform the Commission thereof and shall also forward to it all necessary information. The Commission shall inform the other Member States of the proposed exemption or reduction within one month.

The Council shall be deemed to have authorized maintenance of the proposed exemption or reduction if, within a period of two months from the date on which the other Member States were informed in accordance with the preceding subparagraph, neither the Commission nor any Member State has requested that the matter be examined by the Council.

6. Without prejudice to paragraphs 3, 4 and 5 of this Article and Article 6 of Council Directive 92/106/EEC of 7 December 1992 on the establishment of common rules for certain types of combined transport of goods between Member States [1], Member States may not grant any exemption from, or reduction in, the taxes referred to in Article 3 which would render the chargeable tax lower than the minimum referred to in paragraphs 1 and 2 of this Article.

7. The minimum rates referred to in paragraph 1 shall remain unchanged until 31 December 1997. Beyond that date, the Council, acting subject to the conditions laid down in the Treaty, shall adapt the minimum rates in question, where appropriate.

Tolls and user charges

Article 7

Member States may maintain or introduce tolls and/or introduce user charges in accordance with the following conditions :

(a) Tolls and user charges may not both be imposed at the same time for the use of a single road section. However, Member States may also impose tolls on networks where user charges are made, for the use of bridges, tunnels and mountain passes ;

(b) Without prejudice to Article 8 (2) (e) and Article 9, tolls and user charges may not discriminate, directly or indirectly, on the grounds of the nationality of the haulier or of origin or destination of the vehicle ;

[1] OJ No L 368, 17. 12. 1992, p. 38.