

COUNCIL DECISION

of 30 March 1995

authorizing the Federal Republic of Germany and the Grand Duchy of Luxembourg to apply a measure derogating from Article 3 of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

(95/114/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax : uniform basis of assessment ⁽¹⁾, and in particular Article 27 thereof,

Having regard to the proposal from the Commission,

Whereas, pursuant to Article 27 (1) of Directive 77/388/EEC, the Council, acting unanimously on a proposal from the Commission, may authorize any Member State to introduce special measures for derogation from that Directive in order to simplify the procedure for charging the tax or to prevent certain types of tax evasion and avoidance ;

Whereas, by official letters, received by the Commission on 4 July and 17 August 1994 respectively, the Federal Republic of Germany and the Grand Duchy of Luxembourg have requested authorization to introduce a special measure concerning the construction and maintenance of a transfrontier motorway bridge crossing the river Moselle to the north of Perl and Schengen and linking the German A8 motorway going west from Saarbrücken with the Luxembourg A13 motorway going east from the Dudelange motorway junction ;

Whereas, in accordance with Article 27 (3) of Directive 77/388/EEC the other Member States were informed on 16 September 1994 of the requests for authorization received from the Federal Republic of Germany and the Grand Duchy of Luxembourg ;

Whereas in the absence of a special measure, for each supply of goods and services used for the construction and maintenance of the bridge in question it would have to be established whether the place of taxation was in Germany or Luxembourg ; whereas such taxation arrange-

ments would give rise to considerable practical difficulties ;

Whereas the purpose of this derogation is to simplify the procedure for charging the tax on the construction and maintenance of the bridge in question ;

Whereas the derogation will not affect the amount of tax due at the final consumption stage and will therefore not affect the Community's own resources arising from value added tax,

HAS ADOPTED THIS DECISION :

Article 1

By way of derogation from Article 3 of Directive 77/388/EEC, the Federal Republic of Germany and the Grand Duchy of Luxembourg are hereby authorized, in respect of the motorway bridge over the river Moselle to the north of Perl and Schengen linking the German A8 motorway going west from Saarbrücken with the Luxembourg A13 motorway going east from the Dudelange motorway junction, to consider, for the duration of the construction of the bridge, the whole of the construction site as being within the territory of the Grand Duchy of Luxembourg, and, with effect from the completion of the bridge, the whole of the bridge to be within the territory of the Federal Republic of Germany.

Article 2

This Decision is addressed to the Federal Republic of Germany and the Grand Duchy of Luxembourg.

Done at Brussels, 30 March 1995.

For the Council

The President

E. ALPHANDÉRY

⁽¹⁾ OJ No L 145, 13. 6. 1977, p. 1. Directive as last amended by Directive 94/76/EC (OJ No L 365, 31. 12. 1994, p. 53).