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COMMISSION OF THE EUROPEAN COMMUNITIES

COM(75) 391 Final

Brussels, 23 July 1975

ACTION PROGRAMME FOR TAXATION

(Communication from the Commission to the Council)

ACTION PROGRAMME FOR TAXATION

1. Despite the disappointments of the first stage, achievement of economic and monetary union remains the priority objective in the work of building the new Europe.

The union cannot be attained without a number of measures with regard to taxation. The importance of these measures has been stressed on many occasions by the Community institutions : in its Resolution of 22 March 1971, which established the bases of the union, the Council gave a prominent place to fiscal harmonization, and it reaffirmed the importance of the measures to be adopted in this field in its Resolution of 21 March 1972.

2. However, none of the important proposals which the Commission submitted under these Resolutions has been adopted by the Council, although the latter, in its Resolution of 21 March 1972, agreed to give these proposals priority treatment on its agenda and to reach decisions on them within six months from the date of their entry on the agenda. The Commission much regrets the lack of political will among the Member States, which has prevented all progress in this field, and feels that it is now time to reconsider the matter : its scale and importance are such that it must be tackled resolutely, and without further delay.

3. The Commission is well aware that tax harmonization is subject to limits set by a large number of constraints. The fiscal system of any given country depends closely on its economic and social structures. Taxation is, also, for the Governments, an important instrument for achieving economic and social objectives, whether they affect structures or current economic trends. Until these objectives can be defined and achieved at Community level, the authorities will have to ensure that harmonization in no way hampers the

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(1) O.J. no C 28, 27 March 1971.

(2) O.J. no C 38, 18 April 1972.

use of taxation as an instrument of national policy. Tax harmonization must support work on the convergence of economic policies, without imposing restrictions on the Member States earlier than is necessary, especially as regards the rates of the main taxes and charges.

4. Accordingly, the Commission feels that, for the near future, it would be better to concentrate on essentials and to restrict Community measures to those which are absolutely indispensable. However, it must stress that in the longer term other measures will be necessary if integration is to be taken further.

5. The programme proposed thus has two main parts :

- (i) in the first place, the aim is to complete work on establishing tax conditions which would enable the highest possible degree of liberalization in the movement of persons, goods, service and capital and of interpenetration of economies. This context includes in particular measures for harmonization of the structures and implementing procedures relating to various categories of taxes and charges ;
- (ii) secondly, preparations must be made, with a view to further European integration, to bring closer together the respective burdens of those taxes and charges having any substantial impact in this context. A point which is relevant here is the use of taxation as an instrument of common policies.

6. The Commission has consulted the employers' federations, the unions, and the revenue departments of the member countries. The suggestions and proposals which it is making take fully into account the views expressed in these consultations and reflect the desiderata of managements and unions. Responsibility for prompt action with regard to the Commission's proposals now lies with the Council.

7. The Council's attitude in this connection will show its desire to make progress towards economic and monetary union. Failure over a long period to establish the tax arrangements necessary to economic and monetary union could only be interpreted by public opinion, despite all the declarations of intention, as a decision to abandon the idea of establishing the union.

I. MEASURES DESIGNED TO MEET THE TAXATION REQUIREMENTS FOR ECONOMIC AND MONETARY UNION

Value added tax

8. In the field of turnover taxes, the action of Community institutions aims to preserve neutrality of competition (internal and external) from the dangers constantly posed in the past by the existence of "cascade" taxes in most countries and by the operation of flat-rate set-offs at frontiers, and to pave the way for the utmost economic interpenetration so as to form a large economic area with the features of a domestic market.

Some progress was made towards attainment of these objectives when the Council adopted, in 1967, two initial directives which led to the introduction of VAT in all the Member States (1). The next step now due is the adoption of the proposal for a sixth Directive on the establishment of a uniform basis of assessment for VAT (2), submitted by the Commission in June 1973.

The Commission feels that the Council should act rapidly on this proposal, for until it is adopted, the "own resources" scheme set up by the Council's Decision of 21 April 1970 cannot be properly implemented on 1 January 1978.

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(1) EEC Directives nos 67/227 and 67/228 - O.J., 14 April 1967.

(2) O.J. no C 80, 5 October 1973; O.J. no C 121, 11 October 1974.

(3) O.J. no L 94, 28 April 1970.

9. If the "own resources" mechanism - involving the transfer of not more than 1 % of VAT assessed on a uniform basis - is to function correctly, uniform measures for the collection of the resources must be adopted. Once the Council has taken a decision as to the proposed sixth Directive, the Commission will accordingly draw up proposals to supplement and, where necessary, adapt to the specific characteristics of this category of own resources the rules and procedures already in force under Council Regulation no 2/71 of 2 January 1971 (1).

10. The procedures used and the formalities required in connection with VAT at intra-Community frontiers are complicated, cumbersome and costly. This bears heavily on firms, particularly the smaller ones, so much so that they are frequently deterred from engaging in international trade. In addition, therefore, to the programme which it has put before the Council for simplifying customs procedures and formalities (2) the Commission intends to draw up proposals for similarly simplifying VAT arrangements as quickly as possible.

11. The Commission has ascertained that certain problems peculiar to importation could not be solved in the proposed directive on the uniform basis of assessment. To overcome these problems, it intends to take action in the following fields :

- temporary admission : without prejudice to the application of the provisions of the Treaty relating to the supply of services the aim is to harmonize certain laws, regulations and administrative provisions, one of the key objectives being to make it easier for undertakings in one Member State to tender for public procurement work in other Member States. Participation in such tenders, which is a matter the Commission attaches the highest importance to, is at present hampered by a very large number of obstacles, including taxation ones which simply must be removed ;

(1) O.J. no L 3, 5 January 1971.

(2) Doc. COM(75) 67 final, 25 February 1975.

- repairs carried out for non-taxable persons in another Member State - steps must be taken to avoid the double taxation which occurs at present
- mail-order sales : the cross-frontier development of this type of sale to non-taxable persons, which has the undeniable advantage of widening the choice available to consumers and consequently helping to keep down prices, encounters serious tax and other obstacles. A system thus needs to be introduced which is administratively simple and at the same time ensures that the States concerned each receive the right share of tax receipts.

Excise duties and other indirect taxes

12. In the field of excise duties, three problems first had to be solved : which excise duties to retain, the harmonization of their structures and how to prevent Member States from introducing new excise duties entailing set-off or checking at frontiers. Appropriate proposals were made by the Commission in 1972 and 1973 (outline directive and directives on beer, wine, spirits and mineral oils)(1).

13. A first directive concerning excise duties on manufactured tobacco was also adopted by the Council on 19 December 1972 (2). The two years specified in this Directive for implementing provisions on the structure of the excise duty on cigarettes were, however, extended for a year by Council Directive no 74/318 of 25 June 1974 (3). The Commission has now proposed a further one-year extension. This extension is needed to work out an acceptable solution to a problem which was difficult enough with just the Six and became more complicated with the enlargement of the Community.

On the basis of the original text, the Commission has also laid before the Council a proposal for defining and classifying manufactured tobacco in various groups (4). It intends to move on to the next stage of harmonization by submitting further proposals in the near future.

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(1) O.J. no C 43, 29 April 1972 and O.J. no.C 92, 31 October 1973.

(2) Directive no 72/464 - O.J. L 303, 31 December 1972.

(3) O.J. no L 180, 3 July 1974.

(4) O.J. no C 72, 27 June 1974.

14. In view of the economic importance of the sectors in which these excise duties apply, all further progress in gradually establishing a single market depends on the adoption of the above proposals. Once adopted, they would also enable distortions stemming from the differences in the tax structures to be eliminated. There is no reason why such distortions should survive in such a major field of consumption several years after those caused by turnover taxes were eliminated with the introduction of VAT.

Aware of the importance of this problem, the Council undertook, in its Resolution of 22 March 1971, to take decisions with regard to these texts by 1 January 1974. The Commission therefore urges prompt action in this field.

15. Intra-Community trade in products subject to excise duty involves procedures and formalities that cost money. Such procedures and formalities also exist within the Member States, although in a simpler form, and are largely the result of the generally high level of excise duty. However, steps could usefully be taken to simplify trade between Member States. The Commission will accordingly seek to devise solutions which enable formalities and controls to be relaxed without detracting from the proper collection of excise duties.

16. On other indirect taxes, the Council has already adopted three directives on the harmonization of provisions concerning capital duty (1) (indirect taxes on the raising of capital).

The Commission plans to lay before the Council before the end of 1975 a proposal for a directive on the harmonization of indirect taxes on transactions in securities. The aim of this proposal is to eliminate tax obstacles to the free movement of capital between Member States, and it is therefore part of the work to establish a European capital market. The Commission's long-term objective is in fact the abolition of this tax, which has no place in a modern tax system.

(1) Directive no 69/335 - O.J. no L 249, 3 October 1969
Directive no 73/80 - O.J. no L 103, 18 April 1973
Directive no 73/79 - O.J. no L 103, 18 April 1973

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17. A proposal is being drawn up for a directive designed to facilitate the effective exercise of the freedom to supply services in connection with indemnity insurance. The disparities in the tax systems in this field could impair competition. Without ruling out fuller harmonization later on, the proposal will therefore contain a clause aimed at avoiding cases of double taxation or of non-taxation.

Direct taxes

18. The complexity of the problems to be solved - stemming from historical grounds, technical factors and the use of these taxes as a major instrument of economic and social policy - together with the enlargement of the Community have caused considerable delay in the process of harmonizing direct taxes. It would be dangerous to allow this situation to last, for the difficulties caused by disparities in this field are aggravated by the lack of set-off arrangements at frontiers to neutralize their effects. The work which has been going on for several years with a view to eliminating tax obstacles to the cross-frontier merger of firms and to the free movement of capital should now be stepped up and other measures taken at the same time.

19. The Commission recalls in this connection that as requested by the Council it put forward in January 1969 two proposals for directives (1) concerning the common tax arrangements applying to mergers, divisions and contributions of assets between companies in different Member States and the common tax arrangements applying to parent companies and subsidiaries in different Member States. It deeply regrets that despite the undertakings entered into in several resolutions on industrial policy and the concern shown on this matter at the highest political level at the Paris Summit conference in 1972, the Council has still not acted on these proposals, which are also indispensable if the new "European" companies are to operate properly. The Commission stresses the need for an early decision.

(1) O.J. no C 39, 22 March 1969.

20. The Commission will also transmit to the Council in the very near future a proposal for a directive harmonizing the systems of company taxation and of withholding taxes on dividends. As it pointed out to the Council in a letter dated 7 December 1973, harmonization will be based on a common imputation system partially relieving the double economic taxation of dividends and will involve some narrowing of differences both in the rates of taxes on profits and in those of tax credit. This is one of the steps towards the establishment of a European capital market and paves the way for a further narrowing of differences between taxes on firms' profits.

The Commission will also put forward solutions to the technical problems raised by dividends when they are paid through companies investing in securities or through unit trusts.

21. As regards bond interest, in 1973 the Commission came out in favour of the principle of a substantial withholding tax, something like 25%, reflecting the need to ensure fair taxation and the concern for social implications shown by the Heads of State or Government. The Commission maintains this position, but, as it has already stated, will make a proposal along these lines only when the Community has a system for controlling external capital movements.

22. The Commission also intends to pursue its work relating to the basis of assessment of taxes on the profits of firms. This is a very wide field covering a whole range of provisions such as depreciation, capital gains, valuation of stocks, carry-forward of losses, treatment of tax-free reserves, etc.

While harmonization of the particularly large number of incentives in this field must be ruled out for the time being - such measures come under the economic policy of each Member State - a definition of a "normal" basis of assessment must be worked out if distortions of competition are to be eliminated, taxes made transparent and rates subsequently brought closer together.

23. In the field of personal income tax, a number of particular problems are being examined : in particular there are the increasingly common cases of tax-payers who, on moving from one Member State to another, are penalized because they are unable for instance to deduct certain expenses from their taxable incomes.

International tax evasion and avoidance

24. International tax evasion and avoidance lead to losses of revenue and breaches of the principle of tax fairness; it can also cause distortions in capital movements and the conditions of competition. Accordingly, on 10 February 1975, the Council adopted a resolution (1) proposed by the Commission laying down the principles of the measures to be taken by the Community to ensure that taxes on incomes and profits are correctly determined.

To implement this resolution, the Commission will shortly put forward proposals on:

- the mutual exchange of information between Member States;
- enquiries to be carried out in one Member State at the request of another;
- constant collaboration by the Member States and the Commission so as to keep under review the operation of machinery for mutual assistance and to improve it.

(1) O.J. no C 35, 14 February 1975.

In its work on implementing this resolution, the Commission will also look into the possibility of making it easier for officials of one State to be associated with work carried out in another State and of harmonizing the legal and administrative instruments of the revenue departments for collecting information and exercising their right of control.

25. Following up its Communication to the Council of November 1973 on multinational undertakings (1), the Commission will continue its work with a view to presenting proposals on:

- the elimination of double taxation which can result from adjustments made to profits by a Member State;
- the fixing of common rules for avoiding artificial transfers of profits between undertakings in the same group by means of transfer pricing.

It further calls attention to the suggestions which it made in the report on the tax arrangements applying to holding companies (2) drawn up in June 1973 at the request of the Council, and in particular those concerning the shifting of the burden of proof where there is a presumption of tax avoidance and the charging of a withholding tax on interest and royalties paid to companies bearing little or no tax on such income.

26. In the matter of indirect taxes, the Commission will shortly transmit to the Council a proposal on mutual assistance between Member States to enforce collection of amounts due in connection with VAT, excise duty and other indirect taxes on consumption along the same lines as proposals already put forward concerning agricultural levies and customs duties. The adoption of this proposal would enable Member States to recover amounts owed by a person liable to VAT or other indirect tax, even if this person resided or had his only seizable property in a Member State other than that in which the tax debt arose.

(1) Doc. COM(73) 1930, 7 November 1973.

(2) Doc. COM(73) 1008 final, 18 June 1973.

27. As in the field of direct taxes, the Commission intends to promote mutual assistance between tax authorities in connection with indirect taxes in order to prevent fraud at international level. It will, in addition, study ways and means of quantifying the thoroughness of controls in each State and also seek to discover the most widespread methods of fraud with a view to proposing measures for preventing infringements of national laws and prosecuting offenders.

Tax exemption for individuals:

28. As regards goods imported by travellers, a first directive was adopted by the Council in 1969 (1). The exemptions were increased in 1972 (2). The Commission intends to pursue this policy of extending the exemptions and will submit a proposal early in 1976. It is also planning to propose adjustments at regular intervals to these exemption amounts whose real value already falls well below what it was originally because of the steady rise in prices.

29. As regards consignments of goods by individuals, the Council has already introduced exemption for small consignments of a non-commercial character within the EEC (3) but still has to act on a Commission proposal for introducing similar facilities for consignments from non-member countries (4).

30. Supplementing the arrangements for exemptions for individuals, the Commission will submit, before the end of the year, two new proposals for directives concerning:

- the permanent importation of certain personal effects, especially on the occasion of removal, inheritance, marriage, etc.,
- the temporary importation of certain goods (private cars, caravans, etc.).

(1) Directive No.69/169 - O.J. No. L 133, 4 June 1969.

(2) Directive No.72/230 - O.J. No. L 139, 17 June 1972.

(3) Directive No.74/651 - O.J. No. L 354, 30 December 1974.

(4) O.J. No. C 18, 25 January 1975.

31. The Commission takes the view that all these measures dealing with exemptions, though not indispensable to the establishment of economic and monetary union, are of great importance, since they are concerned with satisfying the interests and the needs of individuals and constitute tangible and meaningful evidence for the public at large of the Community's existence.

Prior examination and consultation procedure

32. The success of the sort of programme advocated in this communication, graduated and spread over a period of time, implies a consensus, if no more than tacit, between the Member States as to the objectives to be attained and their willingness to refrain from unilateral measures which compromise the requisite and eventual convergence of their tax systems.

This is a fundamental condition, but if it is to be fulfilled, the Community institutions and the Member States must have at their disposal all the relevant information on the main provisions which the national authorities plan to adopt in the fields covered by the tax harmonization process, and it would perhaps be appropriate to give the Commission the opportunity of making known its views on these plans and in particular on the effects that their adoption might have on this process. Accordingly the Commission will as early as the beginning of 1976 propose to the Council that a procedure for prior examination and consultation be instituted, the rules of which would be modelled on those operating in the transport field pursuant to the Council's decision of 21 March 1962 (1).

Timetable

33. The timetable planned by the Commission for the submission of the proposals mentioned in this part is attached.

(1) O.J. of 3 April 1962.

II. LONG-TERM MEASURES WITH A VIEW TO FULLER INTEGRATION

34. The measures set forth in the previous paragraphs are not sufficient if the aim is to achieve a genuine single market, entailing inter alia the abolition of tax frontiers. Taxes, which account for a substantial proportion of the gross national product of the Member States, are one of the key forces in their economic and social life, they strongly influence many factors, including the structure of consumption, and consequently, that of production, the profitability of firms, the location of investments, and the conditions of competition in general.

In a community of States closely integrated not only in the economic field but also, to a certain extent, in the political field, these various factors should not be artificially influenced by differences in fiscal burdens. Some alignment of these burdens will therefore eventually be necessary.

This alignment is also necessary in view of the role of taxation as an instrument of economic and social policy, if we are to achieve an ever closer co-ordination of national policies and to develop genuine common policies in the key areas of economic and social life.

Value added tax

35. Bringing VAT rates closely into line is an obvious requirement for a common market having the features of a domestic market. This objective has therefore never really been challenged, but the course to be taken and above all the pace at which progress is to be made have given rise to concern. Aware of the difficulties of attaining such an objective, the Commission feels that this should be a longer term and gradual process.

36. Harmonizing rates will be possible only if certain conditions, which are far from being fulfilled at present, are met in advance. Differences exist between national systems not only as regards the level of rates but also as regards the number of these rates and their scope. The introduction of a uniform basis of assessment would not alter this situation. Accordingly, agreement must first be sought on the number of rates and, if a solution other than that of a single rate were selected on a list of goods and services subject to the various rates and the relationships between these rates.

Other benefits would accrue from such measures:

- neutrality in competition on the internal market - seen from the outset as the fundamental objective of VAT - would be created for substitutable products;
- larger exemptions would be possible, as a major source of variation in the tax burden from one country to the next would be removed;
- it would be easier to simplify certain procedures and formalities in intra-Community trade.

Excise duties

37. In the field of excise duties, the harmonization of rates is as essential as for VAT. The problems to be solved are largely the same or similar and will therefore be tackled from the same angle. However, for these duties, a further factor must be taken into account: certain excise duties are key components of sectoral policies (e.g. energy policy, transport policy, environment policy and agricultural policy) at both national and Community level. The fixing of harmonized rates will therefore depend on the objectives set for these common policies.

The Commission recalls in this connection that it has already laid before the Council proposals, for example under the common transport policy, having a substantial impact on tax harmonization. These include the proposal for a first Council Directive on the adjustment of national taxation systems

for commercial road vehicles (1) and the proposed Council decision on the introduction of a common system of charging for the use of transport infrastructures (2).

Direct taxes

38. Disparities in the area of direct taxes will become more and more noticeable as economic integration advances and as differences in the other factors influencing economic life are gradually narrowed. These disparities will therefore need to be eliminated.

39. In this context, attention will have to be directed to the incentive measures which Member States resort to in so far as they affect the basis of assessment of these taxes.

These measures are, whether permanent or temporary, designed to encourage investment in general or selectively; thus the authorities can influence the general business climate, grant actual aids to certain industries, or encourage the development of certain regions. Depending on the case, such measures, whose exact scope is often difficult to assess, consist in fact either in depreciating at a greater rate than can be justified by actual technical or economic depreciation, or in total or partial exemption of profits, generally on condition that they are re-invested, or even in tax rebates. Their impact, whether on the economy in general or on the specific competitive situation of the industries favoured and of the assisted regions, is not inconsiderable.

If economic and monetary union is to be fully achieved, it is unthinkable that such measures should be adopted by the Member States without being properly related to an overall policy, even where, as aids, they do not actually conflict with the Treaty: as concerted economic policies are gradually worked out and implemented, it will prove increasingly necessary to coordinate the use of the tax system as an instrument of intervention.

(1) O.J. No. C 90, 11 September 1971

(2) O.J. No. C 62, 22 June 1971.

40. In the field of company taxation, the process of bringing rates closer into line, beginning with the introduction of a common system of tax credits will have to be continued. How far this process should go will be determined by reference to the requirements of competition.

41. Another problem is whether, and if so to what extent, action will be required in other fields of direct taxation such as wealth taxes, taxes on specific occupations, etc., in order to attain community objectives.

Conclusions

42. This Communication does not purport to produce a final and exhaustive list of the measures which should be undertaken by the Community, in future years, in the fiscal area. The programme should be reviewed periodically in the light of progress made in defining and establishing the union.

In any case, it is impossible to plan in advance for all cases where taxation could prove a useful instrument for attaining specific economic and social objectives. The Commission is well aware of this and will include the necessary measures in the proposals which it will be making in these fields.

43. In addition taxation problems arise in the field of external relations. These problems are connected in particular with investments and with the taxation of capital and of the income derived from it. In the future these problems may be more sharply marked. An increase in direct and indirect investment in the Community by third countries, and vice versa, is indeed already taking place. Moreover, the Community has undertaken a process of industrial co-operation with the developing countries, especially under the Lome Convention. This co-operation has taxation aspects, which hitherto have primarily been dealt with through bilateral agreements. The Commission intends to examine the possibility of enabling Member States to tackle these problems better on a Community basis and so to make it easier to carry out a policy of industrial co-operation with the developing countries.

ANNEX TIMETABLE

Timetable of measures set forth in part I

1975

- Harmonization of systems of company taxation and of withholding taxes on dividends;
- Harmonization of indirect taxes on transactions in securities;
- Mutual assistance between the Member States with a view to enforcing recovery of taxes due in respect of VAT and excise duties.

1976

- Uniform collection of own resources deriving from VAT (this proposal assumes that the Council has already taken action with regard to the "uniform basis of assessment");
- Solution of VAT problems connected with repairs carried out abroad, mail-order sales and temporary admission of certain goods;
- Extension of exemptions for individuals;
- Measures to establish effective co-operation between revenue departments to combat tax avoidance in the field of direct taxes;
- Elimination of double taxation likely to arise from profit adjustments made by a Member State;
- Prior examination and consultation procedure;
- Simplification of VAT formalities at intra-Community frontiers.

From 1977 onwards

- Measures enabling excise duties to be properly collected and formalities and checks to be streamlined;
- Fixing of common rules to prevent artificial transfers of profits between firms of the same corporate group through transfer pricing;
- Narrowing of divergences in the bases of assessment of taxes on the profits of enterprises.