

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 17 March 1997

authorizing the Federal Republic of Germany to conclude with the Czech Republic two agreements containing measures derogating from Articles 2 and 3 of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

(97/188/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 30 thereof,

Having regard to the proposal from the Commission,

Whereas, under Article 30 of the Sixth Directive, the Council, acting unanimously on a proposal from the Commission, may authorize any Member State to conclude with a non-member country or an international organization an agreement which may contain derogations from the said Directive;

Whereas, by letters officially received by the Secretariat-General of the Commission on 22 August 1995 and 26 March 1996, the German Government requested authorization to conclude two agreements with the Czech Republic which contain derogations from Articles 2 and 3 of the Sixth Directive as regards the construction, repair and renewal of two frontier bridges between the Contracting States;

Whereas the other Member States were informed on 25 April 1996 of the German request;

Whereas, in the absence of derogations, the construction, repair and renewal work carried out on German territory would be subject to value-added tax in Germany while that carried out on Czech territory would lie outside the scope of the Sixth Directive and whereas, in addition, each importation from the Czech Republic into Germany of goods used for the construction, repair and renewal of the two frontier bridges concerned would be subject to value-added tax in Germany;

Whereas the purpose of these derogations is to simplify the rules of taxation for the contractors carrying out the work in question;

Whereas the derogations will have only a negligible effect on the own resources of the European Communities accruing from value-added tax,

HAS ADOPTED THIS DECISION:

Article 1

The Federal Republic of Germany is hereby authorized to conclude two agreements with the Czech Republic containing measures derogating from the Sixth Directive 77/388/EEC.

The first agreement concerns the construction of a frontier bridge across the Rehlingbach between Waidhaus and Rozvadov linking the German A 6 motorway, which runs eastwards from Nuremberg, with the Czech D 5 motorway, which runs westwards from Plzen.

⁽¹⁾ OJ No L 145, 13. 6. 1977, p. 1. Directive as last amended by Directive 96/95/EC (OJ No L 338, 20. 12. 1996, p. 89).

The second agreement concerns the construction of a frontier bridge between Schönberg and Vojtanov extending the E 49 motorway.

The derogations provided for by these agreements are spelt out in Articles 2, 3 and 4 of this Decision.

Article 2

By way of derogation from Article 3 of the Sixth Directive, insofar as they are situated on the territory of the Czech Republic, the area of the construction site for the frontier bridge referred to in the second paragraph of Article 1 of this Directive and, after its completion, the frontier bridge itself shall be treated as forming part of the territory of the Federal Republic of Germany as regards supplies of goods or services intended for the construction of the frontier bridge or for its repair and renewal.

Article 3

By way of derogation from Article 3 of the Sixth Directive, insofar as they are situated on the territory of the Federal Republic of Germany, the area of the construction site for the frontier bridge referred to in the third paragraph of Article 1 of this Decision and, after its completion, the frontier bridge shall be treated as forming part of

the territory of the Czech Republic as regards supplies of goods or services intended for the construction of the frontier bridge or for its repair and renewal.

Article 4

By way of derogation from Article 2 (2) of the Sixth Directive, the importation of goods into Germany from the Czech Republic shall not be subject to value added tax insofar as those goods are used for the construction, repair or renewal of one of the bridges referred to in the second and third paragraphs of Article 1 of this Decision. However, this derogation shall not apply to goods imported by a public authority for the same purpose.

Article 5

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 17 March 1997.

For the Council

The President

G. ZALM
