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II

(Acts whose publication is not obligatory)

EUROPEAN PARLIAMENT

DECISION OF THE EUROPEAN PARLIAMENT

of 16 November 1979

on the discharge to be granted to the Commission in the implementation of the budget of European Communities for the 1977 financial year and the report of the Court of Auditors

(79/1068/ECSC, EEC, Euratom)

THE EUROPEAN PARLIAMENT,

- Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 78g thereof,
- Having regard to the Treaty establishing the European Economic Community, and in particular Article 206b thereof,
- Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 180b thereof,
- Having regard to the revenue and expenditure accounts and the financial statements for the accountancy procedures in respect of the budget for the 1977 financial year,
- Having regard to the report of the Court of Auditors on the accounts for the 1977 financial year and the answers of the institutions to the report (Doc. 500/78),
- Having regard to the Council recommendation on the granting of a discharge to the Commission in respect of the implementation of the budget and of the amending and supplementary budgets for the 1977 financial year (Doc. 179/79),
- Having regard to the report of the Committee on Budgetary Control (Doc. 1-463/79),

1. Notes that:

- (a) estimates of revenue for the 1977 financial year totalled 9 584 257 659 units of account (u.a.), made up follows:
 - own resources: 6 295 143 004 units of account,
 - contributions provided for in the Decision of 21 April 1970: 3 158 041 541 units of account,
 - other: 131 073 114 units of account;
- (b) estimates of expenditure for the 1977 financial year totalled 9 584 257 659 units of account.

2. Notes that:

- (a) expenditure to be met ⁽¹⁾ from revenue for the financial year totalled 8 483 247 173.98 units of account, made up as follows:
- payments in the 1977 financial year: 7 227 291 305.36 units of account,
 - carry-overs to the 1978 financial year: 1 670 497 751.68 units of account,
 - less lapsed carry-overs from the 1976 financial year: 414 541 883.06 units of account;
- (b) appropriations (commitments) utilized during the financial year totalled 9 585 870 870.92 units of account.

3. Grants a discharge to the Commission in respect of the following amounts shown in the revenue and expenditure accounts:

(a) revenue:

- entitlements established for the 1977 financial year totalled 8 484 744 296.33 units of account,
- entitlements collected as at 31 December 1977 totalled 10 331 503 807.12 units of account, made up as follows:
 - 1. amounts collected from the entitlements for the financial year totalled 8 832 219 048.60 units of account, made up as follows:
 - own resources: 5 688 712 821.08 units of account,
 - contributions under the Decision of 21 April 1970: 2 867 641 190.28 units of account,
 - other: 275 865 037.24 units of account,
 - 2. amounts collected from entitlements carried forward from the preceding financial year totalled 1 499 284 758.52 units of account, made up as follows:
 - own resources: 1 049 590 541.45 units of account,
 - contributions provided for under the Decision of 21 April 1970: 348 314 783.02 units of account,
 - other: 101 379 434.05 units of account;

- (b) expenditure (payments shown in the accounts for the financial year): 7 227 291 305.36 units of account.

4. Also notes that entitlements established for earlier years as at 31 December 1976 (1 497 122.34 units of account) have been cancelled.

5. Draws attention to its resolution embodying the comments accompanying the Decision granting a discharge and requests the institutions to report on the measures taken following those comments in accordance with Article 85 of the Financial Regulation.

6. Instructs its President to communicate this Decision and the attached comments to the Commission of the European Communities, to forward them to the other institutions and to arrange for their publication in the *Official Journal of the European Communities*.

Done at Strasbourg, 16 November 1979.

The Secretary-General

H.-J. OPITZ

The President

Simone VEIL

⁽¹⁾ In accordance with Article 15 of Council Regulation (EEC, Euratom, ECSC) No 2891/77 of 19 December 1977 (OJ No L 336, 27. 12. 1977, p. 5).

DECISION OF THE EUROPEAN PARLIAMENT

of 16 November 1979

on the discharge to be granted to the Commission of the European Communities in respect of the implementation of the activities of the Fourth European Development Fund for the 1977 financial year

(79/1069/EEC)

THE EUROPEAN PARLIAMENT,

- Having regard to the Treaty establishing the European Economic Community, and in particular Article 206b thereof,
- Having regard to the ACP-EEC Convention of Lomé,
- Having regard to the Internal Agreement on the financing and administration of Community aid,
- Having regard to the revenue and expenditure account, the balance sheet and the report on the activities of the Fourth European Development Fund ⁽¹⁾ adopted on 31 December 1977,
- Having regard to the report of the Court of Auditors on the accounts for the 1977 financial year and the answers of the institutions to the report,
- Having regard to the recommendation of the Council of the European Communities (Doc. 188/79),
- Having regard to the report of the Committee on Budgetary Control (Doc. 1-463/79),

1. Grants a discharge to the Commission in respect of the following amounts shown in the revenue and expenditure accounts for the 1977 financial year:

- revenue: amounting to 319 546 526.24 European units of account,
- expenditure (payments): amounting to 154 585 115.44 European units of account.

2. Instructs its President to communicate this Decision to the Commission of the European Communities, to forward it to the other institutions and to arrange for its publication in the *Official Journal of the European Communities*.

Done at Strasbourg, 16 November 1979.

The Secretary-General

H.-J. OPITZ

The President

Simone VEIL

⁽¹⁾ COM(79) 49 final.

RESOLUTION

containing the comments accompanying the Decisions granting a discharge on the implementation of the budget of the European Communities for the 1977 financial year

THE EUROPEAN PARLIAMENT,

1. Calls upon all the institutions to take the necessary measures to comply with the following comments, and asks them to submit a written report on these measures, pursuant to the provisions of the third paragraph of Article 85 of the Financial Regulation.

2. Considers that the justifications given by the Commission for not using the appropriations entered in the 1977 budget by Parliament's amendments are inadequate as an explanation of the fact that the decisions of the budgetary authority have been ignored; the more so in that the Council apparently felt no obligation to inform Parliament that the implementation of the budget had raised problems that would have warranted the initiation of a conciliation procedure.

3. Notes that in the 1977 budget, the failure to implement appropriations had a particularly adverse effect on new policies and points out that such failures are a built-in feature of many areas of the budget and lead to a diminution of the budgetary powers of the European Parliament.

4. Asks the Court of Auditors to describe in the annual report the state of cooperation with the national audit authorities.

5. Asks the Commission to include in the financial analysis an examination of the results of Community financial outlay and a review of the economic impact of the budget.

Accounts — Clarity of presentation

6. Notes that the accounts and analyses of financial management submitted by the Commission are neither readily comprehensible nor presented in a straightforward manner, and takes the view that these are two basic requirements for control by Parliament.

7. Notes that the Commission's accounts do not present figures for discharge, and that the Court of Auditors is consequently unable to express an opinion on proposals that have not been made; therefore takes the view that the Commission should in future submit such proposals.

8. Asks the Commission to annex to the financial accounts a table setting out particulars — both quantities and values — of stocks of agricultural products held in public and private storage arising from the operation of the Community intervention system in the agricultural sphere.

Revenue

9. Hopes that there will be stricter control in the area of revenue, because the uneven application of the Common Customs Tariff in certain areas could place an unacceptable burden on other sectors and other Member States and would even cause distortions of trade.

10. Urges the Council to adopt as soon as possible the Regulation ⁽¹⁾ proposed by the Commission to combat the irregularities affecting own resources, as requested by Parliament in its Decision of 7 July 1977 ⁽²⁾ and approved by Parliament ⁽³⁾ at its May 1979 part-session.

11. Urges the Commission to review at regular intervals all tariff preferences granted by the Member States and to take all appropriate political and juridical steps to secure their abolition.

Administrative expenditure and staff

12. Will express its views on the question of the financial management of appropriations to cover the Commission's entertainment and mission expenses when it deals with the 1978 discharge.

13. Favours greater internal flexibility and mobility of the staff of the Community institutions and bodies.

⁽¹⁾ Proposal for a Council Regulation on the measures to be taken in the event of irregularities affecting the own resources referred to in the Decision of 21 April 1970 and the organization of an information system for the Commission in this field (COM(79) 111 final).

⁽²⁾ OJ No L 229, 7. 9. 1977.

⁽³⁾ Doc. 167/79.

14. Supports the setting up of an internal screening group on the Commission's model in all institutions.

15. Urges the Commission to reduce its staff appointment costs by harmonizing its appointment procedures or organizing them jointly with the other institutions.

16. Asks the Commission to study the leasing procedure among others which could lead to a fundamental improvement in Community policy on office accommodation and deplores the absence of a single seat for all the institutions which gives rise to additional expenditure.

17. Proposes that, in view of the large proportion of the administrative budget required to cover the cost of working in all the Community languages, the Community institutions should consider jointly how the extra costs in the language service arising from enlargement can be kept as low as possible.

18. Takes the view that greater efforts should be made to promote inter-institutional cooperation, thus cutting the cost of purchasing furniture and equipment and hiring services.

Research, investment and energy

19. Notes that, in the past:

- (a) planning in the energy and research field has been inadequate;
- (b) excessive use has been made of transfers of appropriations, and that the Commission should in general lay more emphasis on ensuring that the funds devoted to research are well spent.

20. Will determine on the basis of a report by the Court of Auditors whether the arrangements for the temporary appointment of 70 additional staff members in the Joint Research Centre are working as planned.

Social Fund

21. Calls upon the Commission to draw up accounts for revenue and expenditure in accordance with the criteria suggested by the Court of Auditors.

22. Instructs its Committee on Budgetary Control to report on the slow rate of spending of Social Fund

appropriations and, indeed, in all other areas where this problem is encountered.

23. Takes the view that staff and equipment should be deployed as effectively as possible and there should be a rationalization of procedures.

24. Calls on the Commission to make greater efforts to coordinate Community appropriations and aids so as to avoid duplication of aids and to increase their effectiveness.

Regional Fund

25. Will satisfy itself as to the effectiveness of the controls carried out in the Member States and their harmonization as well as the effect, on a region-by-region basis, of Community financing in relation to the objectives of regional policy, using for this purpose, in particular, the statistical data to be forwarded by the Member States.

26. Takes the view that Community regional policy serves a purpose as a back-up to and not as a substitute for national policies.

27. Urges the Commission to sustain its efforts to ensure that the principle of additionality is respected so that the effect of Community aid is not cancelled by the diminution of national aid.

28. Calls on the Commission to seek adequate publicity for Community finance given to projects in the regions.

EAGGF Guarantee Section

29. Notes with regret that substantial transfers of appropriations from one chapter to another and from one financial year to another are a salient feature of financial management in this area.

30. Notes that, despite the existence of the Regional Fund, the gap between the rich and poor regions in the Community has widened still further.

31. Draws attention to the fact that the extent of transfers of appropriations and of balances remaining in the hands of the Member States has increased considerably, causing further dilution of the principle of an annual budget.

32. Deplores the apparent lack of urgency with which sums were recovered from certain Member States where irregularities have been detected.

33. Calls on the Commission to ask the Member States to follow up irregularities with appropriate vigour and to recover all amounts outstanding.

34. Notes that no real control of agricultural spending exists as a result of the small number of officials involved and of the size of the budgets that they are required to manage.

35. Calls on the Commission to investigate the possibility of simplifying the agricultural regulations without delay with a view to closing loopholes which are still giving rise to irregularities.

36. Takes the view that despite the scope of the EAGGF, its effectiveness, like that of the common agricultural policy as a whole, is liable to be undermined by increased national aides which do not necessarily accord with, or perhaps even run counter to, the objectives of Community policy.

37. Notes that current practice and legislation have led to the situation where it is impossible to draw up definitive accounts for revenue and expenditure for the financial year in respect of which a discharge is to be granted, and calls on the Commission to draw up an analysis of financial management in the field of the EAGGF Guarantee Section containing as comprehensive and precise a statement of accounts as possible.

38. Calls on the Court of Auditors to consider the problems of the administration of the intervention and storage agencies.

EAGGF Guidance Section

39. Notes the grave difficulties of implementation of the budget lines, and attributes these difficulties to the financing method.

40. Therefore proposes that the Commission should consider whether greater use cannot be made of the method of financing individual projects, and whether the method of financing by making refunds to the Member States can be avoided as far as possible.

41. Asks the Commission to propose appropriate amendments to the Community's structural regulations, as and when they present problems of implementation, in order to bring them more and more into line with the specific requirements of the less developed regions.

42. Urges the Member States to ensure that the socio-structural Directives relating to agriculture are more fully implemented so that the intended reforms may proceed at a satisfactory pace.

Development aid

43. Notes that the following features are characteristic of financial management in the field of food aid:

- imprecise estimates of appropriations and unusually high transfers of appropriations,
- delays in initiating and implementing aid,
- deficiencies in the procedure for making aid available,
- defects in the transportation of food aid,
- failure to recover the cost of delays,
- inadequate controls in relation to aid evaluation and the use of reciprocal services.

44. Expresses, once again, its concern at the massive delays in decision-making which hinder the effectiveness and continuity of food aid policies.

45. Draws attention to the criticism made by the Court of Auditors that the requirements of certain recipient countries have been seriously over-estimated.

46. Protests that the extra appropriations voted by way of modification to Chapter 100 and involving 14 million European units of account were cancelled at the end of the financial year without any explanation.

47. Recommends that the Commission should only implement aid through non-Community organizations when the necessary controls are available.

EDF

48. Urges the Commission to give particular consideration to the problem of the low utilization rate for payment appropriations of the Fourth European Development Fund.

49. Instructs its Committee on Budgetary Control to look into the operation of the Stabex system on the basis of the findings of the Court of Auditors and to report to Parliament.

Borrowing and lending operations

50. Regrets the absence of an overall view of financial requirements and the extent of the Community's lending operations, which makes Community political control impossible.

51. Instructs its Committee on Budgetary Control to take steps to make such control possible.

COUNCIL

COUNCIL DIRECTIVE

of 6 December 1979

amending Directive 77/799/EEC concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation

(79/1070/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Whereas the practice of tax evasion and tax avoidance leads to budget losses and to violations of the principle of fair taxation and jeopardizes healthy competition; whereas this therefore affects adversely the smooth running of the common market;

Whereas, in order to combat this practice more effectively, cooperation between tax administrations within the Community should be strengthened in accordance with common principles and rules;

Whereas, on 19 December 1977, the Council adopted Directive 77/799/EEC concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation ⁽³⁾; whereas such mutual assistance should be extended to cover indirect taxes in order to ensure that these are correctly assessed and collected;

Whereas, as a matter of particular urgency, mutual assistance must be extended to cover value added tax, both because it is a general tax on consumption and because it plays an important part in the Community's own resources system;

Whereas the provisions of Directive 77/799/EEC are also suitable for value added tax, subject to certain amendments and additions; whereas it is therefore sufficient to extend the scope of the said Directive,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 77/799/EEC is hereby amended as follows:

1. The title shall be replaced by the following:

‘Council Directive of 19 December 1977 concerning mutual assistance by the competent authorities of the Member States in the fields of direct taxation and value added tax.’

2. In Article 1:

(a) Paragraph 1 shall be amended as follows:

‘1. In accordance with the provisions of this Directive the competent authorities of the Member States shall exchange any information that may enable them to effect a correct assessment of taxes on income and capital and also of value added tax.’

⁽¹⁾ OJ No C 182, 31. 7. 1978, p. 46.

⁽²⁾ OJ No C 283, 27. 11. 1978, p. 28.

⁽³⁾ OJ No L 336, 27. 12. 1977, p. 15.

(b) Paragraph 5, as regards the United Kingdom, shall be replaced by the following:

‘in the United Kingdom:

- The Commissioners of Customs and Excise or an authorized representative for information required solely for the purposes of value added tax,
- The Commissioners of Inland Revenue or an authorized representative for all other information.’

Article 3

This Directive is addressed to the Member States.

Done at Brussels, 6 December 1979.

Article 2

Member States shall bring into force the laws, regulations or administrative provisions necessary to comply with this Directive by 1 January 1981.

For the Council

The President

L. PRETI

COUNCIL DIRECTIVE

of 6 December 1979

amending Directive 76/308/EEC on mutual assistance for the recovery of claims resulting from operations forming part of the system of financing the European Agricultural Guidance and Guarantee Fund, and of agricultural levies and customs duties

(79/1071/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS DIRECTIVE:

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Whereas it is not at present possible, in principle, to enforce in one Member State a claim for recovery in respect of value added tax substantiated by a document drawn up by the authorities of another Member State;

Whereas the fact that national provisions relating to recovery of value added tax are applicable only within national territories is in itself an obstacle to the establishment and functioning of the common market; whereas it is therefore necessary to adopt common rules on mutual assistance between Member States for the purpose of recovery; whereas those rules must also apply to the recovery of interest and costs incidental to claims;

Whereas the Council has, by Directive 76/308/EEC ⁽³⁾, adopted common rules for the recovery of claims resulting from operations forming part of the system of financing the European Agricultural Guidance and

Guarantee Fund, and of agricultural levies and customs duties;

Whereas it is possible to have recourse to the same rules for tax purposes; whereas it is sufficient, therefore, to extend the scope of Directive 76/308/EEC,

Article 1

The title of Council Directive 76/308/EEC shall be amended to read as follows:

‘Council Directive of 15 March 1976 on mutual assistance for the recovery of claims resulting from operations forming part of the system of financing the European Agricultural Guidance and Guarantee Fund, and of agricultural levies and customs duties, and in respect of value added tax.’

Article 2

Article 2 of Directive 76/308/EEC shall be amended as follows:

- (a) letter ‘d’ shall be replaced by ‘e’;
- (b) the following point ‘(d)’ shall be inserted after point ‘(c)’:
‘(d) value added tax.’

Article 3

Member States shall take the measures necessary to comply with this Directive by 1 January 1981.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 6 December 1979.

For the Council

The President

L. PRETI

⁽¹⁾ OJ No C 57, 7. 3. 1977, p. 62.

⁽²⁾ OJ No C 56, 7. 3. 1977, p. 79.

⁽³⁾ OJ No L 73, 19. 3. 1976, p. 18.

EIGHTH COUNCIL DIRECTIVE

of 6 December 1979

on the harmonization of the laws of the Member States relating to turnover taxes
— Arrangements for the refund of value added tax to taxable persons not established in the
territory of the country

(79/1072/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community,

Having regard to 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 particular Article 17 (4) thereof,

Having regard to the proposal from the Commission ⁽²⁾,

Having regard to the opinion of the European
Parliament ⁽³⁾,

Having regard to the opinion of the Economic and
Social Committee ⁽⁴⁾,

Whereas, pursuant to Article 17 (4) of Directive
77/388/EEC, the Council is to adopt Community rules
laying down the arrangements governing refunds of
value added tax, referred to in paragraph 3 of the said
Article, to taxable persons not established in the
territory of the country;

Whereas rules are required to ensure that a taxable
person established in the territory of one member
country can claim for tax which has been invoiced to
him in respect of supplies of goods or services in
another Member State or which has been paid in respect
of imports into that other Member State, thereby
avoiding double taxation;

Whereas discrepancies between the arrangements
currently in force in Member States, which give rise in
some cases to deflection of trade and distortion of
competition, should be eliminated;

Whereas the introduction of Community rules in this
field will mark progress towards the effective
liberalization of the movement of persons, goods and
services, thereby helping to complete the process of
economic integration;

Whereas such rules must not lead to the treatment of
taxable persons differing according to the Member State
in the territory of which they are established;

Whereas certain forms of tax evasion or avoidance
should be prevented;

Whereas, under Article 17 (4) of Directive 77/388/EEC,
Member States may refuse the refund or impose
supplementary conditions in the case of taxable persons
not established in the territory of the Community;
whereas steps should, however, also be taken to ensure
that such taxable persons are not eligible for refunds on
more favourable terms than those provided for in
respect of Community taxable persons;

Whereas, initially, only the Community arrangements
contained in this Directive should be adopted; whereas
these arrangements provide, in particular, that decisions
in respect of applications for refund should be notified
within six months of the date on which such
applications were lodged; whereas refunds should be
made within the same period; whereas, for a period of
one year from the final date laid down for the
implementation of these arrangements, the Italian
Republic should be authorized to notify the decisions
taken by its competent services with regard to
applications lodged by taxable persons not established
within its territory and to make the relevant refunds
within nine months, in order to enable the Italian
Republic to reorganize the system at present in
operation, with a view to applying the Community
system;

Whereas further arrangements will have to be adopted
by the Council to supplement the Community system;
whereas, until the latter arrangements enter into force,
Member States will refund the tax on the services and
the purchases of goods which are not covered by this

(1) OJ No L 145, 13. 6. 1977, p. 1.

(2) OJ No C 26, 1. 2. 1978, p. 5.

(3) OJ No C 39, 12. 2. 1979, p. 14.

(4) OJ No C 269, 13. 11. 1978, p. 51.

Directive, in accordance with the arrangements which they adopt pursuant to Article 17 (4) of Directive 77/388/EEC,

HAS ADOPTED THIS DIRECTIVE:

Article 1

For the purposes of this Directive, 'a taxable person not established in the territory of the country' shall mean a person as referred to in Article 4 (1) of Directive 77/388/EEC who, during the period referred to in the first and second sentences of the first subparagraph of Article 7 (1), has had in that country neither the seat of his economic activity, nor a fixed establishment from which business transactions are effected, nor, if no such seat or fixed establishment exists, his domicile or normal place of residence, and who, during the same period, has supplied no goods or services deemed to have been supplied in that country, with the exception of:

- (a) transport services and services ancillary thereto, exempted pursuant to Article 14 (1) (i), Article 15 or Article 16 (1), B, C and D of Directive 77/388/EEC;
- (b) services provided in cases where tax is payable solely by the person to whom they are supplied, pursuant to Article 21 (1) (b) of Directive 77/388/EEC.

Article 2

Each Member State shall refund to any taxable person who is not established in the territory of the country but who is established in another Member State, subject to the conditions laid down below, any value added tax charged in respect of services or movable property supplied to him by other taxable persons in the territory of the country or charged in respect of the importation of goods into the country, in so far as such goods and services are used for the purposes of the transactions referred to in Article 17 (3) (a) and (b) of Directive 77/388/EEC and of the provision of services referred to in Article 1(b).

Article 3

To qualify for refund, any taxable person as referred to in Article 2 who supplies no goods or services deemed to be supplied in the territory of the country shall:

- (a) submit to the competent authority referred to in the first paragraph of Article 9 an application modelled

on the specimen contained in Annex A, attaching originals of invoices or import documents. Member States shall make available to applicants an explanatory notice which shall in any event contain the minimum information set out in Annex C;

- (b) produce evidence, in the form of a certificate issued by the official authority of the State in which he is established, that he is a taxable person for the purposes of value added tax in that State. However, where the competent authority referred to in the first paragraph of Article 9 already has such evidence in its possession, the taxable person shall not be bound to produce new evidence for a period of one year from the date of issue of the first certificate by the official authority of the State in which he is established. Member States shall not issue certificates to any taxable persons who benefit from tax exemption pursuant to Article 24 (2) of Directive 77/388/EEC;
- (c) certify by means of a written declaration that he has supplied no goods or services deemed to have been supplied in the territory of the country during the period referred to in the first and second sentences of the first subparagraph of Article 7 (1);
- (d) undertake to repay any sum collected in error.

Article 4

To be eligible for the refund, any taxable person as referred to in Article 2 who has supplied in the territory of the country no goods or services deemed to have been supplied in the country other than the services referred to in Article 1 (a) and (b) shall:

- (a) satisfy the requirements laid down in Article 3 (a), (b) and (d);
- b) certify by means of a written declaration that, during the period referred to in the first and second sentences of the first subparagraph of Article 7 (1), he has supplied no goods or services deemed to have been supplied in the territory of the country other than services referred to in Article 1 (a) and (b).

Article 5

For the purposes of this Directive, goods and services in respect of which tax may be refundable shall satisfy the conditions laid down in Article 17 of Directive 77/388/EEC as applicable in the Member State of refund.

This Directive shall not apply to supplies of goods which are, or may be, exempted under item 2 of Article 15 of Directive 77/388/EEC.

Article 6

Member States may not impose on the taxable persons referred to in Article 2 any obligation, in addition to those referred to in Articles 3 and 4, other than the obligation to provide, in specific cases, the information necessary to determine whether the application for refund is justified.

Article 7

1. The application for refund provided for in Articles 3 and 4 shall relate to invoiced purchases of goods or services or to imports made during a period of not less than three months or not more than one calendar year. Applications may, however, relate to a period of less than three months where the period represents the remainder of a calendar year. Such applications may also relate to invoices or import documents not covered by previous applications and concerning transactions completed during the calendar year in question. Applications shall be submitted to the competent authority referred to in the first paragraph of Article 9 within six months of the end of the calendar year in which the tax became chargeable.

If the application relates to a period of less than one calendar year but not less than three months, the amount for which application is made may not be less than the equivalent in national currency of 200 European units of account; if the application relates to a period of a calendar year or the remainder of a calendar year, the amount may not be less than the equivalent in national currency of 25 European units of account.

2. The European unit of account used shall be that defined in the Financial Regulation of 21 December 1977 ⁽¹⁾, as determined on 1 January of the year of the period referred to in the first and second sentences of the first subparagraph of paragraph 1. Member States may round up or down, by up to 10 %, the figures resulting from this conversion into national currency.

3. The competent authority referred to in the first paragraph of Article 9 shall stamp each invoice and/or import document to prevent their use for further application and shall return them within one month.

4. Decisions concerning applications for refund shall be announced within six months of the date when the applications, accompanied by all the necessary documents required under this Directive for

examination of the application, are submitted to the competent authority referred to in paragraph 3. Refunds shall be made before the end of the abovementioned period, at the applicant's request, in either the Member State of refund or the State in which he is established. In the latter case, the bank charges for the transfer shall be payable by the applicant.

The grounds for refusal of an application shall be stated. Appeals against such refusals may be made to the competent authorities in the Member State concerned, subject to the same conditions as to form and time limits as those governing claims for refunds made by taxable persons established in the same State.

5. Where a refund has been obtained in a fraudulent or in any other irregular manner, the competent authority referred to in paragraph 3 shall proceed directly to recover the amounts wrongly paid and any penalties imposed, in accordance with the procedure applicable in the Member State concerned, without prejudice to the provisions relating to mutual assistance in the recovery of value added tax.

In the case of fraudulent applications which cannot be made the subject of an administrative penalty, in accordance with national legislation, the Member State concerned may refuse for a maximum period of two years from the date on which the fraudulent application was submitted any further refund to the taxable person concerned. Where an administrative penalty has been imposed but has not been paid, the Member State concerned may suspend any further refund to the taxable person concerned until it has been paid.

Article 8

In the case of taxable persons not established in the territory of the Community, Member States may refuse refunds or impose special conditions.

Refunds may not be granted on terms more favourable than those applied in respect of taxable persons established in the territory of the Community.

Article 9

Member States shall make known, in an appropriate manner, the competent authority to which the application referred to in Article 3 (a) and in Article 4 (a) are to be submitted.

The certificates referred to in Article 3 (b) and in Article 4 (a), establishing that the person concerned is a taxable person, shall be modelled on the specimens contained in Annex B.

⁽¹⁾ OJ No L 356, 31. 12. 1977, p. 1.

Article 10

Member States shall bring into force the provisions necessary to comply with this Directive no later than 1 January 1981. This Directive shall apply only to applications for refunds concerning value added tax charged on invoiced purchases of goods or services or in imports made as from that date.

Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field covered by this Directive. The Commission shall inform the other Member States thereof.

Article 11

By way of derogation from Article 7 (4), the Italian Republic may, until 1 January 1982, extend the period referred to in this paragraph from six to nine months.

Article 12

Three years after the date referred to in Article 10, the Commission shall, after consulting the Member States, submit a report to the Council on the application of this Directive, and in particular Articles 3, 4 and 7 thereof.

Article 13

This Directive is addressed to the Member States.

Done at Brussels, 6 December 1979.

For the Council

The President

L. PRETI

ANNEX A

SPECIMEN

Is this your first application?

If not, please give tax reference number

Receipt stamp

Competent authority to which the application is addressed

Application
for refund of value added tax
by a taxable person not
established in the country
(Read the explanatory notes
before filling in)

1	Surname and forenames or name of firm of applicant			
	Street and house number			
	Postal code, place and country			
2	Nature of applicant's business			
3	Particulars of the tax office and VAT registration number in the country in which the applicant is established or has his domicile or normal place of residence			
4	Period to which the application refers			<div>from month year month to year</div>
5	Total amount of refund requested (in figures) (see overleaf for itemized list)			
6	The applicant requests the refund of the amount shown in 5 in the manner described in 7.			
7	Method of settlement requested (*)			Bank account <input type="checkbox"/> Postal account <input type="checkbox"/>
	<div></div>	Account number	<div></div>	Code number of financial body
	<div></div>	Account in the name of		
	<div></div>	Name and address of the financial body		
8	Number of documents enclosed: Invoices: Import documents:			
9	The applicant hereby declares:			
	(a) that the goods or services specified overleaf were used for his activities as a taxable person during:			
			
	(b) that in the country in which the refund is being requested, and during the period covered by this application, he engaged in:			
	<div><input type="checkbox"/> (*) no supply of goods or services,</div> <div><input type="checkbox"/> (*) only the provision of services in respect of which tax is payable solely by the person to whom they are supplied,</div> <div><input type="checkbox"/> (*) only in the provision of certain exempted transport services and services ancillary thereto;</div>			
(c) that the particulars given in this application are true.				
The applicant undertakes to pay back any monies wrongfully obtained.				

(*) Insert X in the appropriate box

(*) Insert X in the appropriate box

[illegible]

ANNEX B

SPECIMEN

CERTIFICATE OF STATUS OF TAXABLE PERSON

The undersigned
(Name and address of competent authority)

certifies that
(Surname and forenames or name of firm)

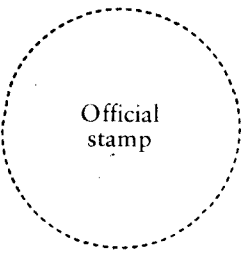
.....
(Nature of activity)

.....
(Address of the establishment)

is a taxable person for the purposes of value added tax, his registration number being ⁽¹⁾

.....

.....
(Date)



.....
(Signature, name and grade)

⁽¹⁾ If the applicant does not have a VAT registration number, the competent authority shall state the reason for this.

ANNEX C

Minimum information to be given in explanatory notes

- A. The application shall be drawn up on a form printed in one of the official languages of the European Communities. This form shall, however, be completed in the language of the country of refund.
- B. The application shall be completed in block capitals and be submitted, by 30 June of the year following that to which the application relates, to the competent authority of the State to which the application is made (see D below).
- C. The VAT registration number in the country of refund shall be given, if it is known to the applicant.
- D. The application shall be submitted to the relevant competent authorities, i.e. for:
- Belgium:
 - Denmark:
 - Germany:
 - France:
 - Ireland:
 - Italy:
 - Luxembourg:
 - the Netherlands:
 - the United Kingdom:
- E. The application shall refer to purchases of goods or services invoiced or to imports made during a period of not less than three months or more than one calendar year. However, it may relate to a period of less than three months where this period represents the remainder of a calendar year. Such an application may also relate to invoices or import documents not covered by previous applications and concerning transactions made during the calendar year in question.
- F. In 9 (a), the applicant shall describe the nature of the activities for which he has acquired the goods or received the services referred to in the application for refund of the tax (e.g. participation in the International Fair, held in from to, stand No, or international carriage of goods as from to on).
- G. The application shall be accompanied by a certificate issued by the official authority of the State in which the applicant is established and which provides evidence that he is a taxable person for the purposes of value added tax in that State. However, where the competent authority referred to in D above already has such evidence in its possession, the applicant shall not be bound to produce new evidence for a period of one year from the date of issue of the first certificate.
- H. The application shall be accompanied by the originals of the invoices or import documents showing the amount of value added tax borne by the applicant.

- I. The application may be used for more than one invoice or import document but the total amount of VAT claimed for 19... may not be less than:

Bfrs/Lfrs ...

Fl ...

DM...

Dkr...

£...

FF...

£ Irl...

Lit...

if the period to which it relates is less than one calendar year but not less than three months or less than:

Bfrs. Lfrs ...

Fl...

DM...

Dkr...

£...

FF...

£ Irl...

Lit...

if the period to which it relates is one calendar year or less than three months,

- J. Exempted transport services are those carried out in connection with the international carriage of goods, including — subject to certain conditions — transport associated with the transit, export or import of goods.
- K. Any refund obtained improperly may render the offender liable to the fines or penalties laid down by the law of the State which has made the refund.
- L. The authority in the country of refund reserves the right to make refunds by cheque or money order addressed to the applicant.
-

COMMISSION

COMMISSION DIRECTIVE

of 22 November 1979

adapting to technical progress Council Directive 74/347/EEC on the approximation of the laws of the Member States relating to the field of vision and windscreen wipers of wheeled agricultural or forestry tractors

(79/1073/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 74/150/EEC of 4 March 1974 on the approximation of the laws of the Member States relating to the type-approval of wheeled agricultural or forestry tractors ⁽¹⁾, as last amended by Directive 79/694/EEC ⁽²⁾, and in particular Articles 11, 12 and 13 thereof,

Having regard to Council Directive 74/347/EEC of 25 June 1974 on the approximation of the laws of the Member States relating to the field of vision and windscreen wipers of wheeled agricultural or forestry tractors ⁽³⁾,

Having regard to Council Directive 77/536/EEC of 28 June 1977 on the approximation of the laws of the Member States relating to the roll-over protection structures of wheeled agricultural or forestry tractors ⁽⁴⁾,

Whereas, in view of experience gained and the provisions adopted concerning roll-over protection structures which affect the configuration of those parts of the tractor superstructure which are of great importance for the field of vision, it is now possible to adapt to technical progress the provisions relating to the field of vision;

Whereas traffic safety requirements in respect of wheeled agricultural or forestry tractors have become more stringent;

Whereas the measures provided for in this Directive are in accordance with the opinion of the Committee for the Adaptation to Technical Progress of Directives for the Removal of Technical Barriers to Trade in Agricultural and Forestry Tractors,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 74/347/EEC is hereby amended as follows:

1. The words 'the field of vision or' are deleted from Articles 2 and 3.
2. After Article 3, the following new Article 3a is inserted:

Article 3a

1. With effect from 1 May 1980 no Member State may, on grounds relating to the field of vision of tractors:

— refuse, in respect of a type of tractor, to grant EEC type-approval, to issue the document referred to in the last indent of Article 10 (1) of Directive 74/150/EEC, or to grant national type-approval,

— or prohibit the entry into service of tractors,

if the field of vision of this type of tractor or of these tractors complies with the provisions of this Directive.

2. With effect from 1 October 1980 Member States:

— may no longer issue the document referred to in the last indent of Article 10 (1) of Directive 74/150/EEC in respect of a type of tractor in which the field of vision does not comply with the provisions of this Directive,

⁽¹⁾ OJ No L 84, 28. 3. 1974, p. 10.

⁽²⁾ OJ No L 205, 13. 8. 1979, p. 17.

⁽³⁾ OJ No L 191, 15. 7. 1974, p. 5.

⁽⁴⁾ OJ No L 220, 29. 8. 1977, p. 1.

— may refuse to grant national type-approval in respect of a type of tractor whose field of vision does not comply with the provisions of this Directive.

3. With effect from 1 January 1983, Member States may prohibit the entry into service of any tractor whose field of vision does not comply with the provisions of this Directive.'

3. The Annex is amended in accordance with the Annex to this Directive.

Article 2

Member States shall bring into force the provisions required in order to comply with the Directive not later

than 30 April 1980 and shall forthwith inform the Commission thereof.

Article 3

This Directive is addressed to the Member States.

Done at Brussels, 22 November 1979.

For the Commission

Étienne DAVIGNON

Member of the Commission

ANNEX

1.4 to read as follows:

Masking effect

'Masking effect' means the chords of the sectors of the semi-circle of vision which cannot be seen owing to structural components such as roof-pillars, air intakes or exhaust stacks and the frame of the windscreen.

2.2.1.1 to read as follows:

The tractor must be placed on a horizontal surface as shown in Figure 2. On a horizontal support level with the reference point, there must be mounted two point sources of light, e.g. 2×150 W, 12 V, 65 mm apart and symmetrically located with respect to the reference point. The support must be rotatable at its centre point about a vertical axis passing through the reference point. For the purpose of measuring the masking effects, the support must be so aligned that the line joining the two light sources is perpendicular to the line joining the masking component and the reference point.

The silhouette (deepest shadow) overlaps projected on to the semi-circle of vision by the masking component when the light sources are switched on simultaneously or alternately must be measured in accordance with 1.4 (Figure 3).

2.2.1.2 to read as follows:

Masking effects must not exceed 700 mm.

2.2.1.3 to read as follows:

Masking effects due to adjacent structural components over 80 mm in width must be so configured that there is an interval of not less than 2 200 mm — measured as a chord of the semi-circle of vision — between the centres of two masking effects.

2.2.1.5 to read as follows:

Outside the sector of vision, masking effects exceeding 700 mm but not exceeding 1 500 mm are, however, permissible if the components causing them cannot be redesigned or relocated: on each side there may be a total of either two such masking effects, one not exceeding 700 mm and the other not exceeding 1 500 mm, or two such masking effects, neither exceeding 1 200 mm.

2.2.2.1 to read as follow:

As an alternative to the procedure set out in 2.2.1, the acceptability of individual masking effects can be determined mathematically. The requirements of 2.2.1.2, 2.2.1.3, 2.2.1.4, 2.2.1.5 and 2.2.1.6 shall apply in respect of the size, distribution and number of the masking effects.

2.5 to read as follows:

For the purpose of determining the masking effects in the sector of vision, the masking effects due to the frame of the windscreen and to any other obstacle may, in accordance with the provisions of 2.2.1.4, be considered as a single effect, provided that the distance between the outermost points of this masking effect does not exceed 700 mm.

For Figure 2, the drawing is replaced by the following drawing:

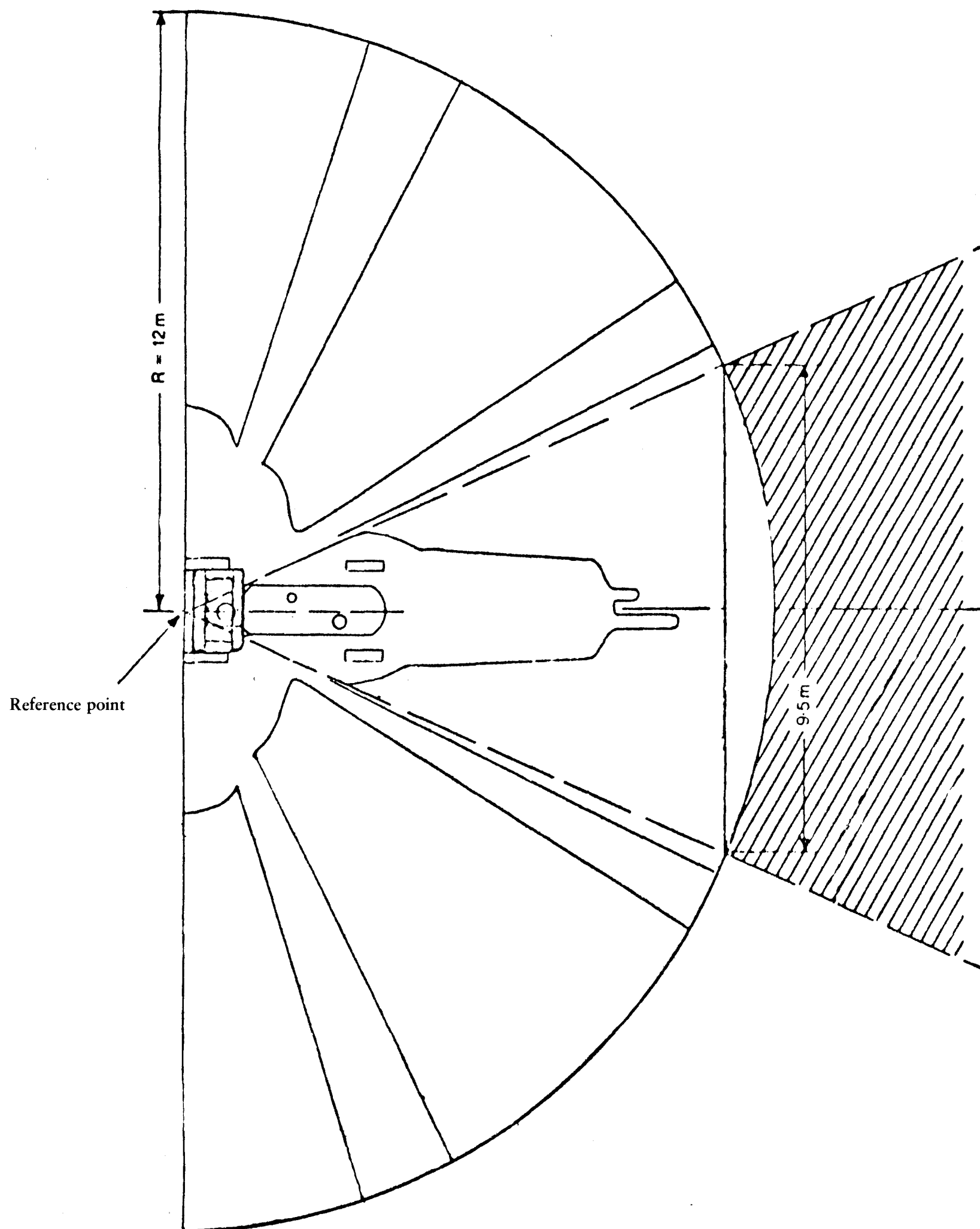


Figure 2