

Official Journal

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Legislation

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Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.
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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 410/94

of 14 February 1994

on the conclusion of the Protocol establishing for the period 16 June 1993 to 15 June 1995 the fishing rights and financial compensation provided for in the Agreement between the European Economic Community and the Government of the Republic of Guinea-Bissau on fishing off the coast of Guinea-Bissau

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community, and in particular Article 43 in conjunction with Article 228 (3), first subparagraph thereof,

Having regard to the proposal from the Commission,

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

Whereas, pursuant to the Agreement between the European Economic Community and the Government of the Republic of Guinea-Bissau on fishing off the coast of Guinea-Bissau ⁽²⁾ signed in Bissau on 27 February 1980, the two Parties conducted negotiations to determine the amendments or additions to be made to the Agreement at the end of application of the Protocol referred to in Article 9 of that Agreement ⁽³⁾;

Whereas, as a result of these negotiations, a new Protocol establishing the fishing rights and financial compensation provided for in the abovementioned Agreement for the period 16 June 1993 to 15 June 1995 was initialled on 5 May 1993;

Whereas it is in the Community's interest to approve the Protocol,

Article 1

The Protocol establishing for the period 16 June 1993 to 15 June 1995 the fishing rights and financial compensation provided for in the Agreement between the European Economic Community and the Government of the Republic of Guinea-Bissau on fishing off the coast of Guinea-Bissau is hereby approved on behalf of the Community.

The text of the Protocol is attached to this Regulation.

Article 2

The President of the Council is hereby authorized to designate the persons empowered to sign the Protocol in order to bind the Community.

Article 3

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 14 February 1994.

For the Council
The President
Y. PAPANTONIOU

⁽¹⁾ OJ No C 20, 24. 1. 1994.

⁽²⁾ OJ No L 226, 29. 8. 1980, p. 33.

⁽³⁾ Regulation (EEC) No 346/92 (OJ No L 42, 18. 2. 1992, p. 24).

PROTOCOL

establishing for the period 16 June 1993 to 15 June 1995 the fishing rights and financial compensation provided for in the Agreement between the European Economic Community and the Government of the Republic of Guinea-Bissau on fishing off the coast of Guinea-Bissau

Article 1

For a period of two years from 16 June 1993, the fishing rights granted pursuant to Article 4 of the Agreement shall be as follows:

1. (a) freezer shrimp trawlers: 11 000 GRT per month, annual average;
(b) freezer fin fish and cephalopod trawlers: 4 000 GRT per month, annual average;
2. freezer tuna seiners: 22 vessels;
3. pole-and-line tuna vessels and surface longliners: 10 vessels.

Article 2

1. The financial compensation referred to in Article 9 of the Agreement shall be, for the period referred to in Article 1, ECU 12 000 000, payable in two equal annual instalments.
2. The use to which this compensation is put shall be the sole responsibility of the Government of the Republic of Guinea-Bissau.
3. The compensation shall be paid into an account opened with a financial institution or any other body designated by Guinea-Bissau.

Article 3

At the request of the Community, the fishing rights referred to in Article 1(1) may be increased by successive instalments of 1 000 GRT per month, calculated on an annual average basis. In this case, the financial compensation referred to in Article 2 shall be increased proportionately.

Article 4

The Community shall also contribute during the period referred to in Article 1 the sum of ECU 450 000 towards the financing of a Guinea-Bissau scientific or technical programme to improve information on the fishery resources within the exclusive economic zone of Guinea-Bissau and the functioning of the marine biology laboratory.

The Guinea-Bissau authorities shall forward a brief report on the way that amount is used to the Commission staff.

This sum shall be made available to the Government of the Republic of Guinea-Bissau and paid into the account indicated by the Guinea-Bissau authorities.

Article 5

The two Parties agree that improving the skills of those involved in sea fishing is a vital element in the success of their cooperation. To that end, the Community shall make it easier for nationals of Guinea-Bissau to find places in establishments in its Member States and shall provide for that purpose, during the period referred to in Article 1, awards for study and practical training in the various scientific, technical and economic disciplines relating to fisheries.

The awards may also be used in any country linked with the Community by a cooperation agreement. The total cost of the awards may not exceed ECU 250 000. At the request of the Guinea-Bissau authorities, part of this sum may be used to cover the costs of participation in international meetings or training courses concerning fisheries or the organization of seminars on fishing in Guinea-Bissau, or to strengthen the administrative infrastructure of the Office of the Secretary of State for Fisheries. The sum shall be payable as and when it is used.

Article 6

Should the Community fail to make the payments provided for in Articles 2 and 4, the application of this Protocol may be suspended.

Article 7

The Annex to the Agreement between the European Economic Community and the Government of the Republic of Guinea-Bissau on fishing off the coast of Guinea-Bissau is hereby repealed and replaced by the Annex to this Protocol.

Article 8

This Protocol shall enter into force on the date on which it is signed.

It shall be applicable from 16 June 1993.

Article 9

This Protocol shall be drawn up in duplicate in the Danish, Dutch, English, French, German, Greek, Italian, Portuguese and Spanish languages, each text being equally authentic.

ANNEX

CONDITIONS FOR THE EXERCISE OF FISHING ACTIVITIES BY COMMUNITY VESSELS IN
GUINEA-BISSAU'S FISHING ZONE

A. Licence application and issuing formalities

The procedure for applications for, and issue of, the licences enabling Community vessels to fish in Guinea-Bissau's fishing zone shall be as follows:

The relevant Community authorities shall present to the Ministry for Fisheries of the Republic of Guinea-Bissau, via the Commission Delegation in Guinea-Bissau, an application for each vessel that is to be used for fishing under the Agreement, at least 30 days before the date of commencement of the period of validity requested.

The applications shall be made on the forms provided for that purpose by the Government of the Republic of Guinea-Bissau, specimens of which are attached hereto (Appendix 1).

Each licence application shall be accompanied by proof of payment of the fee for the period of the licence's validity. Payment shall be made into the account referred to in Article 2 of the Protocol.

The fees shall include all national and local taxes with the exception of port fees and fees for the provision of services.

By way of derogation from Article 4 (3) of the Agreement, the licences shall be valid from their date of issue to 31 December of the year in which they are issued or to the expiry of the Protocol in the case of the last year of application of the Protocol. The fees are annual. However, during the first and last years of application of the Protocol they shall be payable in proportion to the period of validity of the Agreement.

Licences for tuna seiners, pole-and-line tuna vessels and surface longliners shall be issued by the Guinea-Bissau authorities within the 30-day time limit laid down above to the shipowners or their representatives via the Delegation of the Commission of the European Communities in Guinea-Bissau.

Freezer trawlers must be present in the port of Bissau when the licence is handed over. The Delegation of the Commission of the European Communities shall be notified of each licence issued.

Licences shall be issued for a specific vessel and shall not be transferable. However, at the request of the Community, and where *force majeure* is proven, a vessel's licence shall be replaced by a new licence for another vessel whose features are similar to those of the first vessel. The owner of the first vessel shall return the cancelled licence to the Ministry for Fisheries of the Republic of Guinea-Bissau via the authorities of the Commission of the European Communities.

The licence must be held on board at all times.

1. Provisions applicable to trawlers

For the duration of this Protocol the fees for annual licences shall be as follows:

ECU 188 per GRT per year for fin fish trawlers;

ECU 209 per GRT per year for cephalopod trawlers;

ECU 266 per GRT per year for shrimp trawlers.

The fees for a calendar year may be paid in four-monthly or half-yearly instalments, in which case they shall be increased by 5 or 3 % respectively.

2. Provisions applicable to tuna vessels and surface longliners

(a) The fees shall be ECU 20 per tonne caught within Guinea-Bissau's fishing zone.

- (b) Licences shall be issued following payment to the Ministry for Fisheries of a lump sum of ECU 1 500 a year for each tuna seiner and ECU 300 a year for each pole-and-line tuna vessel and surface longliner, equivalent to the fees for:
- 75 tonnes of tuna caught per year in the case of seiners,
 - 15 tonnes caught per year in the case of pole-and-line tuna vessels and surface longliners.

The final statement of the fees due for the fishing period shall be drawn up by the Commission of the European Communities at the end of each calendar year on the basis of the catch statements made by each shipowner and confirmed by the scientific institutes responsible for verifying catch data (Orstom and IEO — Spanish Institute of Oceanography). The statement shall be forwarded simultaneously to the Ministry for Fisheries and to the shipowners. Any additional payment due shall be made by the shipowners to the Ministry for Fisheries of Guinea-Bissau by 31 May of the following year at the latest, in accordance with the procedure for payment set out in Article 2 of the Protocol.

However, if the amount of the final statement is lower than the abovementioned amount, the resulting balance shall not be reimbursable.

B. Statement of catch

For all Community vessels authorized to fish in Guinea-Bissau's waters under the Agreement a statement of their catch must be provided to the Ministry for Fisheries, with a copy to the Delegation of the Commission of the European Communities in Guinea-Bissau, in accordance with the procedures set out below:

- for trawlers, a statement of catch shall be made out according to the specimen annexed hereto (Appendix 2). The statements of catch shall be drawn up each month and presented at least once each quarter,
- for tuna seiners, pole-and-line tuna vessels and surface longliners, a fishing log shall be kept, in accordance with Appendix 3, for each fishing period spent in Guinea-Bissau's fishing zone. The form must be sent, within 45 days of the end of the fishing voyage spent in the Guinea-Bissau fishing zone, to the Ministry for Fisheries via the Delegation of the Commission of the European Communities in Guinea-Bissau,
- forms must be completed legibly and be signed by the master of the vessel.

Should this provision not be adhered to, the Government of Guinea-Bissau reserves the right to suspend the licence of the offending vessel until the formality has been complied with.

C. By-catches

1. Fin fish trawlers may not hold on board crustaceans representing more than 10 % of their total catch in the Guinea-Bissau fishing zone.

Cephalopod trawlers may not hold on board crustaceans representing more than 5 % or fish representing more than 30 % of their total catch in the Guinea-Bissau fishing zone.
2. Pole-and-line tuna vessels shall, moreover, be authorized to fish for live bait in order to carry out their fishing activities in the Guinea-Bissau fishing zone.

D. Signing-on of seamen

Owners who have been issued fishing licences under the Agreement shall contribute to the on-the-job vocational training of Guinea-Bissau nationals, subject to the conditions and limits set out below:

1. each trawler owner shall undertake to employ:
 - three seamen/fishermen on vessels of up to 300 GRT,
 - four seamen/fishermen on vessels of between 300 and 400 GRT,
 - five seamen/fishermen on vessels of more than 400 GRT;
2. owners of tuna vessels and surface longliners shall undertake to employ Guinea-Bissau nationals, subject to the conditions and limits set out below:
 - for the fleet of tuna seiners, four Guinea-Bissau seamen shall be signed on permanently in the Guinea-Bissau fishing zone,
 - for the fleet of pole-and-line tuna vessels and surface longliners, six Guinea-Bissau seamen shall be signed on for the tuna fishing season in the Guinea-Bissau fishing zone, all of them to be assigned to different vessels;

3. the wages of these seamen/fishermen shall be fixed, before licences are issued, by mutual agreement between the shipowners or their representatives and the Office of the Secretary of State for Fisheries; the wages shall be borne by the shipowners and must include the social contributions to which the seaman is subject (including life assurance and accident and sickness insurance).

Should the seamen not be signed on, owners of tuna seiners, pole-and-line tuna vessels and surface longliners shall be obliged to pay a lump sum equivalent to the wages of seamen not signed on.

This sum will be used for the training of seamen/fishermen in Guinea-Bissau and is to be paid into an account specified by the Guinea-Bissau authorities.

E. Taking on board of observers

1. The observer's task shall be to check on fishing activities in the Guinea-Bissau fishing zone. He shall be offered every facility needed to carry out his duties, including access to premises and documents. He must not remain on board any longer than is necessary for the accomplishment of his duties. The master of the vessel shall facilitate the work of the observer, who shall be accorded the conditions enjoyed by officers of the vessel. The salary and the social contributions of the observer shall be borne by the Government of Guinea-Bissau.

Should the observer be taken on board in a foreign port, his travelling costs shall be borne by the shipowner. Should a vessel with an observer on board leave the Guinea-Bissau fishing zone, all measures must be taken to ensure the observer's return to Guinea-Bissau as soon as possible at the expense of the shipowner.

2. Each trawler shall take on board an observer designated by the Ministry for Fisheries. As a contribution to the costs arising from the presence of the observer on board, the shipowner shall pay the Guinea-Bissau authorities the sum of ECU 4 per GRT per year per vessel exercising fishing activities in Guinea-Bissau waters at the same time as the licence fee is paid.

3. Tuna vessels and surface longliners shall take an observer on board at the request of the Ministry for Fisheries.

In that case, the port of embarkation shall be determined by mutual agreement between the Ministry for Fisheries and the shipowners or their representatives at a meeting to be arranged between the two parties.

F. Inspection and monitoring

Any Community vessel fishing in Guinea-Bissau's fishing zone shall allow on board any official of Guinea-Bissau responsible for inspection and monitoring and shall assist him in the accomplishment of his duties. The official must not remain on board any longer than is necessary for the verification of catches by random checks and for any other inspection relating to fishing activities.

G. Fishing zones

The freezer trawlers referred to in Article 1 of the Protocol shall be authorized to fish in waters beyond 12 nautical miles from the base lines.

H. Meshes authorized

The minimum mesh size authorized for the trawl body (mesh fully extended) shall be:

- (a) 60 mm for fin fish vessels;
- (b) 40 mm for cephalopod vessels;
- (c) 40 mm for shrimp vessels;
- (d) 16 mm for fishing for live bait.

Outrigger fishing shall be authorized.

I. Entering and leaving the zone

All Community vessels fishing under the Agreement in the Guinea-Bissau zone shall communicate to the radio station of the Ministry for Fisheries the date and time and their position when entering and leaving the Guinea-Bissau fishing zone.

The call sign, frequency and working hours of the station shall be communicated to the shipowners by the Ministry for Fisheries at the time the licence is issued.

In cases where this radio communication cannot be used, vessels may use alternative means, such as telex (No 266 SEP BI), telegram or telefax (No 20 11 57).

J. Procedure in case of boarding

The authorities of the Commission of the European Communities in Guinea-Bissau shall be notified within 48 hours of any boarding within the Guinea-Bissau fishing zone of a fishing vessel flying the flag of a Member State of the Community and shall at the same time receive a brief report of the circumstances and reasons leading to the boarding.

Before any judicial procedure, an attempt shall be made to resolve the presumed infringement through an administrative procedure. This procedure shall end no later than three working days after the boarding.

If the case cannot be settled by administrative procedure and has to be brought before a competent judicial body, the competent authority shall fix a bank security within 48 hours of the completion of the administrative procedure pending the judicial decision. The size of the security shall not exceed the maximum fine provided for in national legislation in respect of the presumed infringement.

The bank security shall be released by the competent authority once the master of the vessel has been acquitted by the judicial decision.

The vessel and its crew shall be released:

- either on fulfilment of the obligations arising from the administrative procedure, or
- once the bank security has been lodged.

Should one of the parties consider it necessary, it may request urgent consultations pursuant to Article 10 of the Agreement.

Appendix 1

APPLICATION FORM
FOR A
FISHING LICENCE

| For official use only | Remarks |
|------------------------|---------|
| Nationality: | |
| Licence No: | |
| Date of signing: | |
| Date of issue: | |

APPLICANT

Name of firm:

Trade register No:

First name and surname of applicant:

Date and place of birth:

Occupation:

Address:

.....

No of employees:

Name and address of co-signatory:

.....

VESSEL

Type of vessel: Registration No:

New name: Former name:

Date and place of construction:

Original nationality:

Length: Beam: Hold:

Gross tonnage: Net tonnage:

Type of building materials:

Make of main engine: Type: Rating:

Propeller: Fixed ☐ Variable ☐ Ducted ☐

Transit speed:

Call sign: Call frequency:

List of sounding, navigating and transmission instruments:

| | | | | | |
|-------|--------------------------|-------|--------------------------|-------------------------------|--------------------------|
| Radar | <input type="checkbox"/> | Sonar | <input type="checkbox"/> | Netsonde | <input type="checkbox"/> |
| VHF | <input type="checkbox"/> | SSB | <input type="checkbox"/> | Netsonde satellite navigation | <input type="checkbox"/> |
| | | | | | Other |

No of seamen:

CONSERVATION

Packed in ice ☐ Ice and refrigeration ☐
Freezing in brine ☐ Dry ☐ Refrigerated sea water ☐

Total refrigerating power:

Freezing capacity in tonnes/24 hours:

Hold capacity:

TYPE OF FISHING

A. Demersal

Inshore demersal ☐ Deep-sea demersal ☐

Type of trawl:
Cephalopods ☐ Shrimps ☐ Fish ☐

Length of trawl: Headline:

Mesh size in the body:

Mesh size in the wings:

Speed of trawling:

B. Deep-sea pelagic (tuna)

Pole and line ☐ No of poles and lines ☐

Seine ☐ Length of net: Depth of net:

No of tanks: Capacity in tonnes:

C. Longlines and pots

Surface ☐ Bottom ☐

Length of lines: No of hooks:

No of lines:

No of pots:

SHORE INSTALLATIONS

Address and permit No:

.....

Name of firm:

Activities:

Domestic wholesale fish trade ☐Export ☐

Type and No of wholesale trader's card:

Description of processing and conservation plant:

.....

.....

.....

.....

.....

No of employees:

NB: Indicate affirmative answers by a tick in the appropriate box.

Technical remarks

Authorization of the Ministry

☐ Longline
☐ Bait boat
☐ Purse seiner
☐ Trawling
☐ Others

| Dates | | Area | | Surf. water temperature (in °C) | Effort No of hooks used | Catches | | | | | | | | | | | | | | | | Bait used | | | | | | | | |
|-----------|--------------|--------------------|---------------------|---------------------------------|----------------------------|--|--|----|--------------------------------------|----|-------------------------------------|----|-------------------------------------|----|--|----|---------------------------------------|----|------------------------------------|----|---------------------------------------|-----------|----------------------|----|-------------|--|-------|-------|-----------|--------|
| Day/month | Operation No | Latitude N or S | Longitude E or W | | | Bluefin tuna <i>Thunnus maccoyi</i> | Yellowfin tuna <i>Thunnus albacares</i> | | Bigeye tuna <i>Thunnus obesus</i> | | Albacore <i>Thunnus alalunga</i> | | Swordfish <i>Xiphias gladius</i> | | White marlin <i>Tetrapturus audax</i> | | Black marlin <i>Makaira indica</i> | | Sailfish <i>Isiophorus</i> spp. | | Skiplack <i>Katsuwonus pelamis</i> | | Miscellaneous fishes | | Daily total | | Saury | Squid | Live bait | Others |
| | | | | | | No | kg | No | kg | No | kg | No | kg | No | kg | No | kg | No | kg | No | kg | No | kg | No | kg | | | | | |
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COUNCIL DIRECTIVE 94/4/EC

of 14 February 1994

amending Directives 69/169/EEC and 77/388/EEC and increasing the level of allowances for travellers from third countries and the limits on tax-free purchases in intra-Community travel

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 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 Article 1 (1) of Council Directive 69/169/EEC of 28 May 1969 on the harmonization of provisions laid down by law, regulation or administrative action relating to exemption from turnover tax and excise duty on imports in international travel ⁽⁴⁾ provides for allowances in respect of goods contained in the personal luggage of travellers coming from third countries on condition that such imports have no commercial character;

Whereas the total value of the goods eligible for this exemption may not exceed ECU 45 per person; whereas, in accordance with Article 1 (2) of Directive 69/169/EEC, Member States may reduce the allowance to ECU 23 for travellers under 15 years of age;

Whereas account must be taken of measures in favour of travellers recommended by specialized international organizations, in particular the measures contained in Annex F.3 to the International Convention on the Simplification and Harmonization of Customs Procedures;

Whereas these objectives could be attained by increasing the allowances;

Whereas it is necessary to provide, for a limited period, a derogation for Germany, taking into account the economic difficulties likely to be caused by the amount of the allowances, particularly as regards travellers entering the territory of that Member State by land frontiers linking Germany to countries other than Member States and the EFTA members or by means of coastal navigation coming from the said countries;

Whereas there are special links between continental Spain and the Canary Islands, Ceuta and Melilla;

Whereas it is necessary to ensure, during the period when these sales are authorized pursuant to the provisions of Article 28k of 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 ⁽⁵⁾, that the real value of goods likely to be sold in tax-free shops to travellers on intra-Community flights or sea crossings is maintained,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 69/169/EEC is hereby amended as follows:

1. in Article 1 (1), 'ECU 45' shall be replaced by 'ECU 175';
2. in Article 1 (2), 'ECU 23' shall be replaced by 'ECU 90';
3. Article 7b shall be replaced by the following:

'Article 7b

1. By way of derogation from Article 1 (1), Spain is hereby authorized to apply, until 31 December 2000, an allowance of ECU 600 for imports of the goods in question by travellers coming from the Canary Islands, Ceuta and Melilla who enter the territory of Spain as defined in Article 3 (2) and (3) of Directive 77/388/EEC.

2. By way of derogation from Article 1 (2), Spain shall have the option of reducing that allowance to ECU 150 for travellers under 15 years of age.'

Article 2

In Article 28k of Directive 77/388/EEC, the first subparagraph of point 2 (a) shall be replaced by the following:

'(a) the total value of which per person per journey does not exceed ECU 90.

⁽¹⁾ OJ No C 102, 14. 4. 1984, p. 10 and OJ No C 78, 26. 3. 1985, p. 9.

⁽²⁾ OJ No C 46, 18. 2. 1985, p. 75 and opinion delivered on 20 January 1994 (not yet published in the Official Journal).

⁽³⁾ OJ No C 248, 17. 9. 1984, p. 26.

⁽⁴⁾ OJ No L 133, 4. 6. 1969, p. 6. Directive as last amended by Directive 92/111/EEC (OJ No L 384, 30. 12. 1992, p. 47).

⁽⁵⁾ OJ No L 145, 13. 6. 1977, p. 1. Directive as last amended by Directive 92/111/EEC (OJ No L 384, 30. 12. 1992, p. 47).

By way of derogation from Article 28m, Member States shall determine the equivalent in national currency of the above amount in accordance with Article 7 (2) of Directive 69/169/EEC.'

Article 3

1. Member States shall bring into force the provisions necessary to comply with this Directive by 1 April 1994 at the latest. They shall forthwith inform the Commission thereof.

When Member States adopt these provisions, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

2. By way of derogation from paragraph 1, the Federal Republic of Germany shall be authorized to bring into force the measures necessary to comply with this Directive by 1 January 1998 at the latest for goods imported by travellers entering German territory by a land frontier linking Germany to countries other than Member States and the EFTA members or by means of coastal navigation coming from the said countries.

3. Member States shall communicate to the Commission the text of the provisions of domestic law which they adopt in the field covered by this Directive.

Article 4

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 14 February 1994.

For the Council
The President

Y. PAPANTONIOU

COUNCIL DIRECTIVE 94/5/EC

of 14 February 1994

supplementing the common system of value added tax and amending Directive 77/388/EEC —
Special arrangements applicable to second-hand goods, works of art, collectors' items and
antiques

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 99 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, in accordance with Article 32 of 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 ⁽³⁾, the Council is to adopt a Community taxation system to be applied to used goods, works of art, antiques and collectors' items;

Whereas the present situation, in the absence of Community legislation, continues to be marked by the application of very different systems which cause distortion of competition and deflection of trade both internally and between Member States; whereas these differences also include a lack of harmonization in the levying of the own resources of the Community; whereas consequently it is necessary to bring this situation to an end as soon as possible;

Whereas the Court of Justice has, in a number of judgments, noted the need to attain a degree of harmonization which allows double taxation in intra-Community trade to be avoided;

Whereas it is essential to provide, in specific areas, for transitional measures enabling legislation to be gradually adapted;

Whereas, within the internal market, the satisfactory operation of the value added tax mechanisms means that Community rules with the purpose of avoiding double taxation and distortion of competition between taxable persons must be adopted;

Whereas it is accordingly necessary to amend Directive 77/388/EEC,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 77/388/EEC is hereby amended as follows:

1. in Article 11

- (a) the following paragraph shall be added to Title A:

'4. By way of derogation from paragraphs 1, 2 and 3, Member States which, on 1 January 1993, did not avail themselves of the option provided for in the third subparagraph of Article 12 (3) (a) may, where they avail themselves of the option provided for in Title B (6), provide that, for the transactions referred to in the second subparagraph of Article 12 (3) (c), the taxable amount shall be equal to a fraction of the amount determined in accordance with paragraphs 1, 2 and 3.

That fraction shall be determined in such a way that the value added tax thus due is, in any event, equal to at least 5 % of the amount determined in accordance with paragraphs 1, 2 and 3.;

- (b) the following paragraph shall be added to Title B:

'6. By way of derogation from paragraphs 1 to 4, Member States which, on 1 January 1993, did not avail themselves of the option provided for in the third subparagraph of Article 12 (3) (a) may provide that for imports of the works of art, collectors' items and antiques defined in Article 26a (A) (a), (b) and (c), the taxable amount shall be equal to a fraction of the amount determined in accordance with paragraphs 1 to 4.

That fraction shall be determined in such a way that the value added tax thus due on the import is, in any event, equal to at least 5 % of the amount determined in accordance with paragraphs 1 to 4.;

2. in Article 12:

- (a) paragraph 3 (c) shall be replaced by the following:

'(c) Member States may provide that the reduced rate, or one of the reduced rates, which they

⁽¹⁾ OJ No C 323, 27. 12. 1989, p. 120.

⁽²⁾ OJ No C 201, 7. 8. 1989, p. 6.

⁽³⁾ OJ No L 145, 13. 6. 1977, p. 1. Directive as last amended by Directive 92/111/EEC (OJ No L 384, 30. 12. 1992, p. 47).

apply in accordance with the third paragraph of (a) shall also apply to imports of works of art, collectors' items and antiques as referred to in Article 26a (A) (a), (b) and (c).

Where they avail themselves of this option, Member States may also apply the reduced rate to supplies of works of art, within the meaning of Article 26a (A) (a):

- effected by their creator or his successors in title,
- effected on an occasional basis by a taxable person other than a taxable dealer, where these works of art have been imported by the taxable person himself or where they have been supplied to him by their creator or his successors in title or where they have entitled him to full deduction of value-added tax;

(b) paragraph 5 shall be replaced by the following:

'5. Subject to paragraph 3 (c), the rate applicable on the importation of goods shall be that applied to the supply of like goods within the territory of the country.'

3. the following Article shall be inserted:

'Article 26a

Special arrangements applicable to second-hand goods, works of art, collectors' items and antiques

A. Definitions

For the purposes of this Article, and without prejudice to other Community provisions:

- (a) *works of art* shall mean the objects referred to in (a) of Annex I.
However, Member States shall have the option of not considering as "works of art" the items mentioned in the final three indents in (a) in Annex I;
- (b) *collectors' items* shall mean the objects referred to in (b) of Annex I;
- (c) *antiques* shall mean the objects referred to in (c) of Annex I;
- (d) *second-hand goods* shall mean tangible movable property that is suitable for further use as it is or after repair, other than works of art, collectors' items or antiques and other than precious metals or precious stones as defined by the Member States;
- (e) *taxable dealer* shall mean a taxable person who, in the course of his economic activity,

purchases or acquires for the purposes of his undertaking, or imports with a view to resale, second-hand goods and/or works of art, collectors' items or antiques, whether that taxable person is acting for himself or on behalf of another person pursuant to a contract under which commission is payable on purchase or sale;

- (f) *organizer of a sale by public auction* shall mean any taxable person who, in the course of his economic activity, offers goods for sale by public auction with a view to handing them over to the highest bidder;
- (g) *principal of an organizer of a sale by public auction* shall mean any person who transmits goods to an organizer of a sale by public auction under a contract under which commission is payable on a sale subject to the following provisions:
 - the organizer of the sale by public auction offers the goods for sale in his own name but on behalf of his principal,
 - the organizer of the sale by public auction hands over the goods, in his own name but on behalf of his principal, to the highest bidder at the public auction.

B. Special arrangements for taxable dealers

1. In respect of supplies of second-hand goods, works of art, collectors' items and antiques effected by taxable dealers, Member States shall apply special arrangements for taxing the profit margin made by the taxable dealer, in accordance with the following provisions.

2. The supplies of goods referred to in paragraph 1 shall be supplies, by a taxable dealer, of second-hand goods, works of art, collectors' items or antiques supplied to him within the Community:

- by a non-taxable person,
- or
- by another taxable person, in so far as the supply of goods by that other taxable person is exempt in accordance with Article 13 (B) (c),
- or
- by another taxable person in so far as the supply of goods by that other taxable person qualifies for the exemption provided for in Article 24 and involves capital assets,
- or

- by another taxable dealer, in so far as the supply of goods by that other taxable dealer was subject to value added tax in accordance with these special arrangements.

3. The taxable amount of the supplies of goods referred to in paragraph 2 shall be the profit margin made by the taxable dealer, less the amount of value added tax relating to the profit margin. That profit margin shall be equal to the difference between the selling price charged by the taxable dealer for the goods and the purchase price.

For the purposes of this paragraph, the following definitions shall apply:

- *selling price* shall mean everything which constitutes the consideration, which has been, or is to be, obtained by the taxable dealer from the purchaser or a third party, including subsidies directly linked to that transaction, taxes, duties, levies and charges and incidental expenses such as commission, packaging, transport and insurance costs charged by the taxable dealer to the purchaser but excluding the amounts referred to in Article 11 (A) (3),
- *purchase price* shall mean everything which constitutes the consideration defined in the first indent, obtained, or to be obtained, from the taxable dealer by his supplier.

4. Member States shall entitle taxable dealers to opt for application of the special arrangements to supplies of:

- (a) works of art, collectors' items or antiques which they have imported themselves;
- (b) works of art supplied to them by their creators or their successors in title;
- (c) works of art supplied to them by a taxable person other than a taxable dealer where the supply by that other taxable person was subject to the reduced rate pursuant to Article 12 (3) (c).

Member States shall determine the detailed rules for exercising this option which shall in any event cover a period at least equal to two calendar years.

If the option is taken up, the taxable amount shall be determined in accordance with paragraph 3. For supplies of works of art, collectors' items or antiques which the taxable dealer has imported himself, the purchase price to be taken into

account in calculating the margin shall be equal to the taxable amount on importation, determined in accordance with Article 11 (B), plus the value added tax due or paid on importation.

5. Where they are effected in the conditions laid down in Article 15, the supplies of second-hand goods, works of art, collectors' item or antiques subject to the special arrangements for taxing the margin shall be exempt.

6. Taxable persons shall not be entitled to deduct from the tax for which they are liable the value added tax due or paid in respect of goods which have been, or are to be, supplied to them by a taxable dealer, in so far as the supply of those goods by the taxable dealer is subject to the special arrangements for taxing the margin.

7. In so far as goods are used for the purpose of supplies by him subject to the special arrangements for taxing the margin, the taxable dealer shall not be entitled to deduct from the tax for which he is liable:

- (a) the value added tax due or paid in respect of works of art, collectors' items or antiques which he has imported himself;
- (b) the value added tax due or paid in respect of works of art which have been, or are to be, supplied to him by their creators or their successors in title;
- (c) the value added tax due or paid in respect of works of art which have been, or are to be, supplied to him by a taxable person other than a taxable dealer.

8. Where he is led to apply both the normal arrangements for value added tax and the special arrangements for taxing the margin, the taxable dealer must follow separately in his accounts the transactions falling under each of these arrangements, according to rules laid down by the Member States,

9. The taxable dealer may not indicate separately on the invoices which he issues, or on any other document serving as an invoice, tax relating to supplies of goods which he makes subject to the special arrangements for taxing the margin.

10. In order to simplify the procedure for charging the tax and subject to the consultation provided for in Article 29, Member States may provide that, for certain transactions or for certain categories of taxable dealers, the taxable

amount of supplies of goods subject to the special arrangements for taxing the margin shall be determined for each tax period during which the taxable dealer must submit the return referred to in Article 22 (4).

In that event, the taxable amount for supplies of goods to which the same rate of value added tax is applied shall be the total margin made by the taxable dealer less the amount of value added tax relating to that margin.

The total margin shall be equal to the difference between:

- the total amount of supplies of goods subject to the special arrangements for taxing the margin effected by the taxable dealer during the period; that amount shall be equal to the total selling prices determined in accordance with paragraph 3,

and

- the total amount of purchases of goods as referred to in paragraph 2 effected, during that period, by the taxable dealer; that amount shall be equal to the total purchase prices determined in accordance with paragraph 3.

Member States shall take the necessary measures to ensure that the taxable persons concerned do not enjoy unjustified advantages or sustain unjustified loss.

11. The taxable dealer may apply the normal value added tax arrangements to any supply covered by the special arrangements pursuant to paragraph 2 or 4.

Where the taxable dealer applies the normal value added tax arrangements to:

- (a) the supply of a work of art, collectors' item or antique which he has imported himself, he shall be entitled to deduct from his tax liability the value added tax due or paid on the import of those goods;
- (b) the supply of a work of art supplied to him by its creator or his successors in title, he shall be entitled to deduct from his tax liability the value added tax due or paid for the work of art supplied to him;
- (c) the supply of a work of art supplied to him by a taxable person other than a taxable dealer, he shall be entitled to deduct from his tax liability the value added tax due or paid for the work of art supplied to him.

This right to deduct shall arise at the time when the tax due for the supply in respect of which the taxable dealer opts for application of the normal value added tax arrangements become chargeable.

C. *Special arrangements for sales by public auction*

1. By way of derogation from B, Member States may determine, in accordance with the following provisions, the taxable amount of supplies of second-hand goods, works of art, collectors' items or antiques effected by an organizer of sales by public auction, acting in his own name, pursuant to a contract under which commission is payable on the sale of those goods by public auction, on behalf of:

- a non-taxable person,

or

- another taxable person, in so far as the supply of goods, within the meaning of Article 5 (4) (c), by that other taxable person is exempt in accordance with Article 13 (B) (c),

or

- another taxable person, in so far as the supply of goods, within the meaning of Article 5 (4) (c), by that other taxable person qualifies for the exemption provided for in Article 24 and involves capital assets,

or

- a taxable dealer, in so far as the supply of goods, within the meaning of Article 5 (4) (c), by that other taxable dealer, is subject to tax in accordance with the special arrangements for taxing the margin provided for in B.

2. The taxable amount of each supply of goods referred to in paragraph 1 shall be the total amount invoiced in accordance with paragraph 4 to the purchaser by the organizer of the sale by public auction, less:

- the net amount paid or to be paid by the organizer of the sale by public auction to his principal, determined in accordance with paragraph 3,

and

- the amount of the tax due by the organizer of the sale by public auction in respect of his supply.

3. The net amount paid or to be paid by the organizer of the sale by public auction to his principal shall be equal to the difference between:

- the price of the goods at public auction,
- and
- the amount of the commission obtained or to be obtained by the organizer of the sale by public auction from his principal, under the contract whereby commission is payable on the sale.

4. The organizer of the sale by public auction must issue to the purchaser an invoice or a document in lieu itemizing:

- the auction price of the goods,
- taxes, dues, levies and charges,
- incidental expenses such as commission, packing, transport and insurance costs charged by the organizer to the purchaser of the goods.

That invoice must not indicate any value added tax separately.

5. The organizer of the sale by public auction to whom the goods were transmitted under a contract whereby commission is payable on a public auction sale must issue a statement to his principal.

That statement must itemize the amount of the transaction, i.e. the auction price of the goods less the amount of the commission obtained or to be obtained from the principal.

A statement so drawn up shall serve as the invoice which the principal, where he is a taxable person, must issue to the organizer of the sale by public auction in accordance with Article 22 (3).

6. Organizers of sales by public auction who supply goods under the conditions laid down in paragraph 1 must indicate in their accounts, in suspense accounts:

- the amounts obtained or to be obtained from the purchaser of the goods,
- the amount reimbursed or to be reimbursed to the vendor of the goods.

These amounts must be duly substantiated.

7. The supply of goods to a taxable person who is an organizer of sales by public auction

shall be regarded as being effected when the sale of those goods by public auction is itself effected.

D. *Transitional arrangements for the taxation of trade between Member States*

During the period referred to in Article 28l, Member States shall apply the following provisions:

- (a) supplies of new means of transport, within the meaning of Article 28a (2), effected within the conditions laid down in Article 28c (A) shall be excluded from the special arrangements provided for in B and C;
- (b) by way of derogation from Article 28a (1) (a), intra-Community acquisitions of second-hand goods, works of art, collectors' items or antiques shall not be subject to value added tax where the vendor is a taxable dealer acting as such and the goods acquired have been subject to tax in the Member State of departure of the dispatch or transport, in accordance with the special arrangements for taxing the margin provided for in B, or where the vendor is an organizer of sales by public auction acting as such and the goods acquired have been subject to tax in the Member State of departure of the dispatch or transport, in accordance with the special arrangements provided for in C;
- (c) Articles 28b (B) and 28c (A) (a), (c) and (d) shall not apply to supplies of goods subject to value added tax in accordance with either of the special arrangements laid down in B and C.;

4. the following paragraph shall be inserted in Article 28:

'1a. Until a date which may not be later than 30 June 1999, the United Kingdom of Great Britain and Northern Ireland may, for imports of works of art, collectors' items or antiques which qualified for an exemption on 1 January 1993, apply Article 11 (B) (6) in such a way that the value added tax due on importation is, in any event, equal to 2,5 % of the amount determined in accordance with Article 11 (B) (1) to (4).';

5. the following subparagraph shall be added to Article 28 (2) (e):

'This provision may not apply to supplies of second-hand goods, works of art, collectors' items or antiques subject to value added tax in accordance with one of the special arrangements provided for in Article 26a (B) and (C).';

6. Article 28a (2) (b) shall be amended as follows:

'(b) the means of transport referred to in (a) shall not be considered to be "new" where both of the following conditions are simultaneously fulfilled:

- they were supplied more than three months after the date of first entry into service. However, this period shall be increased to six months for the motorized land vehicles defined in (a),
- they have travelled more than 6 000 kilometres in the case of land vehicles, sailed for more than 100 hours in the case of vessels, or flown for more than 40 hours in the case of aircraft.

Member States shall lay down the conditions under which the above facts can be regarded as established.;

7. the following Title and Article shall be inserted:

'TITLE XVII

TRANSITIONAL PROVISIONS APPLICABLE IN THE FIELD OF SECOND-HAND GOODS, WORKS OF ART, COLLECTORS' ITEMS AND ANTIQUES

Article 28o

1. Member States which at 31 December 1992 were applying special tax arrangements other than those provided for in Article 26a (B) to supplies of second-hand means of transport effected by taxable dealers may continue to apply those arrangements during the period referred to in Article 28l in so far as they comply with, or are adjusted to comply with, the following conditions:

- (a) the special arrangements shall apply only to supplies of the means of transport referred to in Article 28a (2) (a) and regarded as second-hand goods within the meaning of Article 26a (A) (d), effected by taxable dealers within the meaning of Article 26a (A) (e), and subject to the special tax arrangements for taxing the margin pursuant to Article 26a (B) (1) and (2). Supplies of new means of transport within the meaning of Article 28a (2) (b) that are carried out under the conditions specified in Article 28c (A) shall be excluded from these special arrangements;
- (b) the tax due in respect of each supply referred to in (a) is equal to the amount of tax that would be due if that supply had been subject to the normal arrangements for value added tax, less the

amount of value added tax regarded as being incorporated in the purchase price of the means of transport by the taxable dealer;

- (c) the tax regarded as being incorporated in the purchase price of the means of transport by the taxable dealer shall be calculated according to the following method:

- the purchase price to be taken into account shall be the purchase price within the meaning of Article 26a (B) (3),
- that purchase price paid by the taxable dealer shall be deemed to include the tax that would have been due if the taxable dealer's supplier had subjected the supply to the normal value added tax arrangements,
- the rate to be taken into account shall be the rate applicable within the meaning of Article 12 (1), in the Member State within which the place of the supply to the taxable dealer, determined in accordance with Article 8, is deemed to be situated;

- (d) the tax due in respect of each supply as referred to in (a), determined in accordance with the provisions of (b), may not be less than the amount of tax that would be due if that supply had been subject to the special arrangements for taxing the margin in accordance with Article 26a (B) (3).

For the application of the above provisions, the Member States have the option of providing that if the supply had been subject to the special arrangements for taxation of the margin, that margin would not have been less than 10 % of the selling price, within the meaning of B (3);

- (e) the taxable dealer shall not be entitled to indicate separately on the invoices he issues, or on any other document in lieu, tax relating to supplies which he is subjecting to the special arrangements;
- (f) taxable persons shall not be entitled to deduct from the tax for which they are liable tax due or paid in respect of second-hand means of transport supplied to them by a taxable dealer, in so far as the supply of those goods by the taxable dealer is subject to the tax arrangements in accordance with (a);
- (g) by way of derogation from Article 28a (1) (a), intra-Community acquisitions of means of transport are not subject to value added tax where the vendor is a taxable dealer acting as such and the second-hand means of transport acquired has been subject to the tax, in the Member State of departure of the dispatch or transport, in accordance with (a);

- (h) Articles 28b (B) and 28c (A) (a) and (d) shall not apply to supplies of second-hand means of transport subject to tax in accordance with (a).

2. By way of derogation from the first sentence of paragraph 1, the Kingdom of Denmark shall be entitled to apply the special tax arrangements laid down in paragraph 1 (a) to (h) during the period referred to in Article 28l.

3. Where they apply the special arrangements for sales by public auction provided for in Article 26a (C), Member States shall also apply these special arrangements to supplies of second-hand means of transport effected by an organizer of sales by public auction acting in his own name, pursuant to a contract under which commission is payable on the sale of those goods by public auction, on behalf of a taxable dealer, in so far as the supply of the second-hand means of transport, within the meaning of Article 5 (4) (c), by that other taxable dealer, is subject to tax in accordance with paragraphs 1 and 2.

4. For supplies by a taxable dealer of works of art, collectors' items or antiques that have been supplied to him under the conditions provided for in Article 26a (B) (2), the Federal Republic of Germany shall be entitled, until 30 June 1999, to provide for the possibility for taxable dealers to apply either the special arrangements for taxable dealers, or the normal VAT arrangements according to the following rules:

- (a) for the application of the special arrangements for taxable dealers to these supplies of goods, the taxable amount shall be determined in accordance with Article 11 (A) (1), (2) and (3);
- (b) in so far as the goods are used for the needs of his operations which are taxed in accordance with (a), the taxable dealer shall be authorized to deduct from the tax for which he is liable:
 - the value added tax due or paid for works of art, collectors' items or antiques which are or will be supplied to him by another taxable dealer, where the supply by that other taxable dealer has been taxed in accordance with (a),
 - the value added tax deemed to be included in the purchase price of the works of art, collectors' items or antiques which are or will be supplied to him by another taxable dealer, where the supply by that other taxable dealer has been subject to value added tax in accordance with the special arrangements for the taxation of the margin provided for in

Article 26a (B), in the Member State within whose territory the place of that supply, determined in accordance with Article 8, is deemed to be situated.

This right to deduct shall arise at the time when the tax due for the supply taxed in accordance with (a) becomes chargeable;

- (c) for the application of the provisions laid down in the second indent of (b), the purchase price of the works of art, collectors' items or antiques the supply of which by a taxable dealer is taxed in accordance with (a) shall be determined in accordance with Article 26a (B) (3) and the tax deemed to be included in this purchase price shall be calculated according to the following method:
 - the purchase price shall be deemed to include the value added tax that would have been due if the taxable margin made by the supplier had been equal to 20 % of the purchase price,
 - the rate to be taken into account shall be the rate applicable, within the meaning of Article 12 (1), in the Member State within whose territory the place of the supply that is subject to the special arrangements for taxation of the profit margin, determined in accordance with Article 8, is deemed to be situated;
- (d) where he applies the normal arrangements for value added tax to the supply of a work of art, collectors' item or antique which has been supplied to him by another taxable dealer and where the goods have been taxed in accordance with (a), the taxable dealer shall be authorized to deduct from his tax liability the value added tax referred to in (b);
- (e) the category of rates applicable to these supplies of goods shall be that which was applicable on 1 January 1993;
- (f) for the application of the fourth indent of Article 26a (B) (2), the fourth indent of Article 26a (C) (1) and Article 26a (D) (b) and (c), the supplies of works of art, collectors' items or antiques, taxed in accordance with (a), shall be deemed by Member States to be supplies subject to value added tax in accordance with the special arrangements for taxation of the profit margin provided for in Article 26a (B);
- (g) where the supplies of works of art, collectors' items or antiques taxed in accordance with (a) are effected under the conditions provided for in Article 28c (A), the invoice issued in accordance with Article 22 (3) shall contain an endorsement indicating that the special taxation arrangements for taxing the margin provided for in Article 28o (4) have been applied.;

8. the derogation provided for in Article 28 (3) (e) relating to Article 5 (4) (c) shall be deleted;
9. Article 32 shall be deleted;
10. the Annex to this Directive shall be added as Annex I.

Article 2

Member States may take measures concerning the right to deduct value added tax in order to avoid the taxable dealers concerned enjoying unjustified advantages or sustaining unjustified loss.

Article 3

Acting unanimously on a proposal from the Commission, the Council may authorize any Member State to introduce particular measures for the purpose of combating fraud, by providing that the tax due in application of the arrangements for taxing the profit margin provided for in Article 26a (B) cannot be less than the amount of tax which would be due if the profit margin were equal to a certain percentage of the selling price. This percentage shall be fixed taking into account the normal profit margins realized by economic operators in the sector concerned.

Article 4

1. Member States shall adapt their present value added tax system to this Directive.

They shall bring into force such laws, regulations and administrative provisions as are necessary for their system thus adapted to enter into force on 1 January 1995 at the latest.

2. Member States shall inform the Commission of the provisions which they adopt to apply this Directive.

3. Member States shall communicate to the Commission the provisions of national law which they adopt in the field covered by this Directive.

4. When Member States adopt such provisions, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 14 February 1994.

For the Council

The President

Y. PAPANTONIOU

ANNEX

ANNEX I

WORKS OF ART, COLLECTORS' ITEMS AND ANTIQUES

For the purposes of this Directive:

(a) "works of art" shall mean:

- pictures, collages and similar decorative plaques, paintings and drawings, executed entirely by hand by the artist, other than plans and drawings for architectural, engineering, industrial, commercial, topographical or similar purposes, hand-decorated manufactured articles, theatrical scenery, studio back cloths or the like of painted canvas (CN code 9701),
- original engravings, prints and lithographs, being impressions produced in limited numbers directly in black and white or in colour of one or of several plates executed entirely by hand by the artist, irrespective of the process or of the material employed by him, but not including any mechanical or photomechanical process (CN code 9702 00 00),
- original sculptures and statuary, in any material, provided that they are executed entirely by the artist; sculpture casts the production of which is limited to eight copies and supervised by the artist or his successors in title (CN code 9703 00 00); on an exceptional basis, in cases determined by the Member States, the limit of eight copies may be exceeded for statuary casts produced before 1 January 1989,
- tapestries (CN code 5805 00 00) and wall textiles (CN code 6304 00 00) made by hand from original designs provided by artists, provided that there are not more than eight copies of each,
- individual pieces of ceramics executed entirely by the artist and signed by him,
- enamels on copper, executed entirely by hand, limited to eight numbered copies bearing the signature of the artist or the studio, excluding articles of jewellery and goldsmiths' and silversmiths' wares,
- photographs taken by the artist, printed by him or under his supervision, signed and numbered and limited to 30 copies, all sizes and mounts included;

(b) "collectors' items" shall mean:

- postage or revenue stamps, postmarks, first-day covers, pre-stamped stationery and the like, franked, or if unfranked not being of legal tender and not being intended for use as legal tender (CN code 9704 00 00),
- collections and collectors' pieces of zoological, botanical, mineralogical, anatomical, historical, archaeological, palaeontological, ethnographic or numismatic interest (CN code 9705 00 00);

(c) "antiques" shall mean objects other than works of art or collectors' items, which are more than 100 years old (CN code 9706 00 00).'
