EUROPEISKA GEMENSKAPERNAS KOMMISSION

Bryssel den 13.12.1994
KOM(94) 584 slutlig

94/0324 (CNS)

KOMMISSIONENS RAPPORT TILL RÅDET

enligt artiklarna 12.4 och 28.2 g i rådets sjätte direktiv

av den 17 maj 1977 om harmonisering av medlemsstaternas lagstiftning rörande

omsättningsskatter - gemensamt system för mervärdesskatt: enhetlig beräkningsgrund

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Förslag till

RÅDETS DIREKTIV

om ändring av direktiv 77/388/EEG
om det gemensamma systemet för mervärdesskatt
(skatt på jordbruksprodukter)

(framlagt av Kommissionen)

SAMMANDRAG

AV

KOMMISSIONENS RAPPORT TILL RÅDET

enligt artiklarna 12.4 och 28.2 g i rådets sjätte direktiv

av den 17 maj 1977 om harmonisering av medlemsstaternas lagstiftning rörande omsättningsskatter - gemensamt system för mervärdesskatt: enhetlig beräkningsgrund

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[redacted]

Detta dokument sammanfattar rapporten presenterad i Dokument KOM(94)584 som kommissionen lagt fram till rådet enligt artikel 12.4 och 28.2 i sjätte mervärdesskattedirektivet ändrat av rådets direktiv 92/77/EEG. Rapporten söker fastställa om snedvridning av konkurrensen mellan medlemsstaterna uppstått till följd av avskaffandet av tull- och skattekontroller vid gemenskapernas inre gränser den 1 januari 1993, särskilt med hänsyn till de regler om tillnärmning av momsskattesatser som rådet tidigare antagit i form ändringar av det sjätte momsdirektivet.

Rapporten studerar betydelsen av rådets beslut från 1991 och 1992 om tillnärmning av mervärdesskattesatser i ett historiskt sammanhang. Den undersöker de åtgärder som vidtagits av medlemsstaterna i detta hänseende och den roll som tillnärmning av mervärdesskattesatser spelar i den inre marknadens sätt att fungera, särskilt med avseende på dess påverkan på privatpersoners köpbeteende i gränsöverskridande handel inom den inre marknaden. Huvuddelarna i rapporten behandlar emellertid två särskilda frågeställningar som kräver en översyn av rådet.

Den första av dessa båda huvudfrågor gäller omfattningen av den reducerade mervärdesskattesatsen och tillämpningsområdet för leveranser av varor och tjänster enligt bilaga H till det sjätte direktivet. Direktivets artikel 12.4 fastställer att rådet skall se över förteckningen i bilaga H vartannat år för att undersöka om förändringar i omfattningen är önskvärda. Översynen inriktas på att se om förändringar i de nuvarande bestämmelserna krävs för att komma tillrätta med problem med konkurrensssnedvridning. Översynen grundar delvis sina slutsatser på en utredning som utförts på kommissionens vägnar av en oberoende konsult vars uppgift var att bedöma om avskaffandet av fiskala gränser hade lett till en påtaglig förändring av mönstret i privatpersoners inköp över gränserna. Utredningen tittade särskilt på de varukategorier som finns upptagna i bilaga H där de mervärdesskattesatser som tillämpas varierar starkt mellan vissa medlemsstater, nämligen livsmedel, läkemedel, medicinsk utrustning, bilbarnstolar samt böcker, tidningar och tidskrifter. I de flesta fall kom man i utredningen fram till att ingen märkbar ökning i det gränsöverskridande inköpsmönstret ägt rum sedan januari 1993. På samma sätt vad avser varor och tjänster för vilka normalmervärdesskattesatsen tillämpas, t.ex. varaktiga hushållskonsumtionsvaror, möbler, glasvaror, guldsmedsartiklar osv, där utredningen också kom fram till att man inte kunde konstatera någon märkbar förändring i köpbeteendet i den gränsöverskridande handeln. Rapporten drog därför slutsatsen att föreskrifterna i artikel 12.3 i det sjätte momsdirektivet fungerade väl i praktiken, i huvudsak tack vare de omläggningar av skattesatserna som ägt rum bland medlemsstaterna alltsedan rådets överenskommelse 1991, och att det därför på dessa grunder inte fanns någon anledning att ändra innehållet i bilaga H genom att lägga till eller stryka varu- och tjänstegrupper.

Rapporten behandlar inte frågan huruvida tillägg till omfattningen av den reducerade skattesatsen skall göras av andra skäl än snedvridning av konkurrensen. Kommissionen anser att det av andra skäl är för tidigt att överväga förändringar i omfattningen av den reducerade skattesatsen, inte minst eftersom de bredare frågeställningarna om tillämpningsområdet för skattesatserna troligen blir mer hanterbara mot bakgrund av rådets diskussioner kring utformningen av den definitiva mervärdesskatteordningen 1997.

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Den andra huvudfrågan som rapporten behandlar rör översyner av olika mervärdesskattesatser under en övergångstid som medlemsstaterna har tillstånd att tillämpa under övergångsperioden enligt artikel 28.2, t.ex. skattesats noll och andra kraftigt reducerade skattesatser (som understiger 5%), tillfälliga "parkerings" skattesatser osv.
Även här har kommissionen inte kunnat finna några bevis för att dessa åtgärder har resulterat i någon betydande snedvridning av konkurrens eller omläggning av handeln. Kommissionen anser därför att dessa åtgärder fortsatt kan gälla för den period under vilken övergångsordningen gäller. Kommissionen vill emellertid påminna om att den i sitt ursprungliga förslag från 1987 om tillnärmning av mervärdesskattesatser föreslog att varje medlemsstat skulle begränsa sig till två mervärdesskattesatser inom ramen för den inre marknaden - en normalskattesats och en reducerad skattesats - utan några nollskattesatser eller kraftigt reducerade skattesatser. Den fortsatta tillämpningen av alla de undantag som medlemsstaterna har fått tillstånd till enligt artikel 28.2, särskilt de som hänför sig till kategorin kraftigt reducerade skattesatser eller nollskattesatser, fick som resultat att ett övermått av olika mervärdesskattesatser tillämpas inom gemenskapen med risk för en möjlig snedvridning av konkurrensen inom vissa sektorer. Denna situation strider mot behovet av förenklade förfaranden och av att minska de administrativa kostnaderna för uppbörd och redovisning av mervärdesskatt som är nödvändiga för att stärka den inre marknaden.

Kommissionen vill därför framhålla att införandet av den definitiva mervärdesskatteordningen skulle underlättas om medlemsstaterna själva övervägde att ändra dessa bestämmelser, till en början genom att allmänt minska antal tillämpliga skattesatser, och, där det är möjligt, ersätta skattesatserna med en av de skattesatsvalmöjligheter som står öppna för medlemsstaterna enligt artikel 12.3. Denna fråga kommer att tas upp i kommissionens meddelande om införandet av den definitiva mervärdesskatteordningen. På motsvarande sätt kommer frågan om de ytterligare åtgärder på området mervärdesskattesatser som behöver vidtas i detta sammanhang att behandlas inom ramen för kommissionens förslag om införandet av den definitiva mervärdesskatteordningen.

[redacted]

Förslag till

RÅDETS DIREKTIV

om ändring av direktiv 77/388/EEG
om det gemensamma systemet för mervärdesskatt
(skatt på jordbruksprodukter)

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EXPLANATORY MEMORANDUM

The purpose of this proposal is to enable the Council to take a decision on the taxation of agricultural outputs after 1 January 1995 as it is required to do under Community VAT legislation. The decision is necessary to consolidate fiscal equality in the Internal Market by eliminating distortions of competition which have arisen as a result of structural imbalances in the level of VAT rates currently applied by Member States to supplies of agricultural outputs. It is therefore in the interest of Member States that the source of fiscal distortion arising in current VAT legislation should be eliminated.

At present Community VAT legislation[1] lays down a series of rules which Member States must respect in setting the structure, levels and coverage of rates of value added tax that they apply. These rules on the approximation of VAT rates were necessary to enable the Community to abolish internal border controls on 1 January 1993 as part of the programme of eliminating fiscal frontiers. However, with regard to agricultural outputs other than foodstuffs the Council considered it appropriate to defer a decision on the appropriate VAT rate treatment until 31 December 1994 (Article 12(3)(d) of the Sixth Directive). The Council also decided that in the meantime a standstill arrangement would apply under which those Member States which were already applying a reduced VAT rate to supplies of agricultural outputs at the time the Directive was adopted would be permitted to continue to apply them for a further two years; those Member States which applied the standard rate at that time would continue to apply this rate.

The expression "agricultural outputs other than foodstuffs" covers products such as flowers, plants and similar products of the floriculture and horticulture sectors as well as items such as, raw wool and wood of various kinds. The current situation in Member States with regard to the taxation of these products at reduced rates is set out in the following table:

agricultural outputs	**Member States applying a reduced rate**
flowers, plants etc.	DE, IT, LU, NL, PO
wool	BE, LU, NL
wood for industrial uses	DE
wood for use as firewood	BE, DE, EL, IE, IT, LU, NL

As can be seen, the products in question, with the possible exception of firewood, are taxed at reduced VAT rates by a minority of Member States only. In order to enable the Council to take the necessary decision on the taxation of agricultural outputs after December 1994 the Commission has examined the situation to see whether the current structural imbalance in VAT rates applied by different Member States in the sector has had any discernible effect on cross-border purchasing patterns since the abolition of frontier controls in January 1993. Such evidence as is available has revealed that this has not in fact been the case and that there has not been any significant changes in cross-border purchases by private individuals since

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[1] The Sixth Council VAT Directive 77/388/EEC as amended by Directive 92/77/EEC.

January 1993. This is not surprising given that the type of products under consideration are by their nature not ones which private persons would normally travel long distances to buy even if there were significant price differences from one Member State to another.

However, the Commission is aware of reported cases of fraud in regard to flowers and plants in which traders situated in Member States in which these products are taxed at the standard rate, have apparently purchased such products in Member States in which they are taxed at the reduced rate and have not subsequently declared these purchases to their fiscal authorities. These cases of fraud are essentially a matter for investigation by the competent authorities of the Member States concerned. However, it is clear that the problem has arisen as a result of unscrupulous traders deciding to take advantage of the difference in VAT rates between Member States. The differences have arisen because of the fact that some Member States at present have the option of retaining a reduced rate. As the text of Article 12(3)(d) of the Sixth Directive stands at present, no remedy is provided in Community law to overcome the present structural imbalances in VAT rates applied in the floricultural and horticultural sectors. This is because Member States currently applying the standard rate do not have the option of applying the reduced rate.

There are, therefore, two solutions to this problem which the Commission might propose. On the one hand, the Commission can propose that the standard VAT rate should apply to all supplies of flowers and plants from 1 January next. This would have the effect of creating a level playing field in this sector free from fiscally induced distortions of competition as a result of differences in VAT rates.

Alternatively, the Commission might propose that Member States should have the option of applying a reduced rate to such supplies. Such an option might be advisable in view of the negative effects that an increase in the VAT rate would have on production and sales of flowers and plants in Member States currently applying a reduced rate. Flowers and plants are products which by their nature and the nature of the market are vulnerable to abrupt increases in the retail price level. Member States could avoid this outcome by availing of the option to apply a reduced VAT rate to supplies of these products.

In view of the foregoing the Commission is of the opinion that on balance, the most appropriate means of overcoming the current structural imbalance in rates would be to extend the option of applying a reduced rate to flowers, plants and the like as well as to firewood but on a transitional basis only. The Commission does not wish to extend the scope of the reduced rate on a permanent basis at present. Changes of this type can be more appropriately considered against the background of future Council conclusions on the shape of the 1997 definitive VAT regime. In addition the Commission does not favour extending the scope of the reduced rate to other agricultural outputs such as wool and wood for industrial use on the grounds that such products are by their nature inputs into manufacturing processes which for the most part are carried out by taxable persons with a right to deduct input VAT.

Commentary on the Articles

Article 1

It is proposed to end the present standstill arrangement with regard to the taxation of agricultural outputs other than products falling within category 1 of Annex H, by deleting Article 12(3)(d) of the Sixth VAT Directive and inserting a new subparagraph (g) in Article 28(2) which will permit Member States to apply a reduced rate to supplies of live trees and other plants (including bulbs, roots and the like, cut flowers and ornamental foliage) and wood for use as firewood for the duration on the transitional period referred to in Article 28(1).

Förslag till
RÅDETS DIREKTIV
om ändring av direktiv 77/388/EEG
om det gemensamma systemet för mervärdesskatt
(skatt på jordbruksprodukter)

EUROPEISKA UNIONENS RÅD HAR ANTAGIT DETTA DIREKTIV

med beaktande av Fördraget om upprättandet av Europeiska gemenskapen, särskilt artikel 99 i detta,

med beaktande av kommissionens förslag,

med beaktande av Europaparlamentets yttrande,

med beaktande av Ekonomiska och sociala kommitténs yttrande, och

med beaktande av följande:

Artikel 12.3 d i direktiv 77/388/EEG[1] senast ändrad av direktiv 94/5/EG[2], fastställer att reglerna för beskattning av jordbruksprodukter utom sådana som omfattas av grupp 1 i bilaga H skall antas av rådet genom enhälligt beslut på kommissionens förslag senast den 31 december 1994. Till och med denna dag hade de medlemsstater som redan tillämpade en reducerad skattesats tillstånd att behålla denna, medan de som tillämpade en normalskattesats inte hade tillstånd att införa en reducerad skattesats, vilket möjliggjorde ett uppskov med tillämpningen av normalskattesatsen under två år.

Erfarenheterna har visat att det har rapporterats fall av bedrägligt förfarande på grund av den strukturella obalansen mellan de mervärdesskattesatser som medlemsstaterna tillämpar på jordbruksprodukter från blomster- och trädgårdsodling. Den strukturella obalansen kan direkt hänföras till tillämpningen av artikel 12.3 d och bestämmelserna där bör ändras i motsvarande mån.

Den bästa lösningen består i att provisoriskt utsträcka möjligheten att tillämpa en reducerad skattesats för jordbruksprodukter från blomster- och trädgårdsodling samt ved.

HÄRIGENOM FÖRESKRIVS FÖLJANDE:

Artikel 1

Direktiv 77/388/EEG ändras på följande sätt:

1. Artikel 12.3 d skall utgå.

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[1] EGT nr L 145, 13.6.1977, s. 1.
[2] EGT nr L 60, 3.3.1994, s.16.

2. I artikel 28.2 skall följande punkt införas:

"g) Medlemsstaterna kan tillämpa en lägre skattesats på leveranser av levande träd och andra växter (däribland blomsterlökar, rötter och liknande, snittblommor och prydnadsbladväxter) samt på ved."

Den nuvarande strecksatsen g) blir strecksats h).

Artikel 2

1. Medlemsstaterna skall anta de lagar och andra författningar som är nödvändiga för att följa detta direktiv senast den 1 januari 1995.
De skall genast underrätta kommissionen om detta.

När en medlemsstat antar dessa bestämmelser skall de innehålla en hänvisning till detta direktiv eller åtföljas av en sådan hänvisning när de offentliggörs. Närmare föreskrifter om hur hänvisningen skall göras skall varje medlemsstat själv utfärda.

2. Medlemsstaterna skall till kommissionen överlämna texten till bestämmelserna i nationell lagstiftning som de antar inom det område som omfattas av detta direktiv.

Artikel 3

Detta direktiv träder i kraft samma dag som det offentliggörs i Europeiska gemenskapernas officiella tidning.

Artikel 4

Detta direktiv riktar sig till medlemsstaterna.

utfärdat i Bryssel den

På rådets vägnar
Ordförande

Financial statement

The proposed Directive, when adopted, will have no consequences for the collection of Community own resources.

Impact on SMEs

Proposal for a Council Directive amending Directive 77/388/EEC on the common system of value added tax.

- taxation of agricultural outputs.

1. Administrative constraints for business resulting from the application of the legislation.
   None

2. Easing of burdens on business.
   None

3. Disadvantages for business.
   None

Note re points 1, 2 and 3. The proposal has been tabled in order to enable the Council of Ministers to fulfil its legal obligation to take a decision on the appropriate rate of VAT to apply to agricultural outputs from 1 January 1995. The decision in question will simply determine the level of its VAT rate to be applied to supplies of such products from that date. It will have no other impact on business.

4. Effects on employment.
   Positive.

   However, according to a study commissioned by the Dutch flower and plant industry[1], a return to the standard VAT rate would have a negative impact on employment in the Netherlands and Germany (estimated to be around 10% of the workforce in this sector).

5. Have the social partners been consulted?
   No

6. Are there any less constraining alternatives?
   No

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(1) VAT rates for ornamental plants in the EU as from January 1, 1995 (Moret, Ernst & Young).

REPORT FROM THE COMMISSION TO THE COUNCIL

in accordance with Articles 12(4) and 28(2)(g) of the
Sixth Council Directive of 17 May 1977
on the harmonization of the laws of the Member States relating to turn-over taxes-
Common system of value added tax: uniform basis of assessment

Contents

1. Introduction

This document constitutes the reports that the Commission is required to submit to the Council in accordance with Articles 12 (4) and 28 (2) of the sixth VAT Directive as amended by Council Directive 92/77/EEC in particular. The objective of the report is to examine the action undertaken by Member States in 1993 and 1994 on the approximation of VAT rates having regard to the functioning of the internal market. The report seeks to establish whether distortions of competition as between Member States have arisen in this context, particularly in the light of the opening up of the single market to consumers wishing to make cross-frontier purchases.

The report begins by recalling the significance of the Council decisions in 1991 and 1992 on the approximation of VAT rates (Chapter 2). These decisions represented a historic first step by the Community in this area and paved the way for the abolition of Customs and fiscal controls at the Community's internal frontiers on 1 January 1993, the implementation of the transitional VAT regime and with that, the completion of the Single Market programme. The action taken by Member States in this regard is summarized in Chapter 3. In this context, the role that VAT rate approximation plays in the functioning of a single market is examined particularly insofar as its influence on the pattern of cross-border purchasing behaviour of private individuals in that market is concerned (Chapter 4). The case of intra-Community trade by taxable persons is also briefly considered (Chapter 5).

The report then goes on to deal with a number of specific issues on which the Council is required to carry out a review. The first of these concerns the scope of the reduced rate and the coverage of supplies of goods and services laid down in Annex H to the sixth Directive (Chapter 6). Article 12 (4) of the Directive lays down that the Council should review this list every two years to see whether any changes to its scope are desirable. The second issue concerns the operation of certain transitional VAT rate provisions which may be applied by Member States during the transitional period referred to in Article 28 1 of the Directive (Chapter 7). Article 28 (2) (g) requires the Council to review these rates from the point of view of the risk of distortions of competition that their existence may create in relation to the functioning of the internal market.

Finally, it should be noted that there are a number of rate-related issues which this report does not deal with in detail viz. (i) the harmonization of excise duties and the effect of present disparities in such duties on distortions of competition in the internal market, (ii) future action with regard to further approximation of VAT rates in the Community (including the level of the standard rate after 1996 and the scope of the reduced rate). These issues are matters to be dealt with separately in the context of the introduction of the definitive VAT regime..

2. The historical context of the Council decisions on the approximation of VAT rates

In matters of VAT rate harmonization, the Commission has always taken the provisions of the Treaty of Rome as its touchstone. In this context Article 99 of the Treaty of Rome (as amended by the Single Act) states that

> "the Council shall..... adopt provisions for the harmonization of legislation concerning turnover taxes..... to the extent that such harmonization is necessary to ensure to ensure the establishment and functioning of the internal market within the time limit laid down in Article 8A"

The position as enshrined in Community law was thus clear: completing the internal market within the agreed time frame (before 31 December 1992) was an absolute priority for all Member States. The Commission accordingly put forward a series of proposals aimed at meeting the challenge of completing the internal market programme on time through amongst other things, the abolition of fiscal controls at the Community's internal frontiers.[1]

These proposals were very ambitious in their aims and intent. It was envisaged that all transactions in intra-Community trade would in future be subject to Value Added Tax levied in the country of origin and that the present system taxing imports and remitting tax at export would end for such trade. In the context of these proposals, a fairly rigorous approximation of VAT rates would be necessary both for a widespread application of an origin-based VAT system for trade amongst business and more particularly to allow private individuals the right to purchase goods for their own consumption tax-paid in any Member State and to return to their Member State of residence without being subject to controls at the borders or having to account there for any taxes on their purchases. Up to then Member States had been more or less free to set VAT rates at levels of their own choosing. This state of affairs would, however, have to change if the internal market was to become a reality.

Progress in Council discussions proved slow initially. Eventually, a series of key meetings of the ECOFIN Council of Ministers took place from 1989 to 1991 during which the basic shape of the VAT arrangements to be applied to intra-Community trade after 1993 were agreed. As early as October 1989, the Council decided that there would be insufficient time before 1 January 1993 for the conditions seen as a necessary prerequisite for the introduction of a system of taxation in the country of origin, to be fulfilled. It was essential therefore that a taxation system should be devised for intra-Community trade between businesses based on the continued levying of VAT and excise duties in the Member State of destination, which would at the same time permit border controls to be abolished on schedule. This eventually led to the setting up of the VAT transitional regime.

This decision inevitably had important consequences for the discussions on the approximation of VAT rates. Rate approximation was still seen as an absolute precondition for the abolition of travellers' allowances and border controls. Indeed Member States' concern over the potential distortive effects of disparities in VAT rates was such that the Council insisted on drawing up special regimes for both distance selling and sales of new

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[1] Com (87) 320 to 329

means of transport; under these schemes VAT would in principle continue to be payable in the Member State of final consumption for sales to private individuals.

In March and June 1991, the Council reached agreement on the essential characteristics of the VAT rate system to be applied from 1993 onwards in the context of the transitional VAT regime. This agreement differed in some important aspects from the original Commission proposal of 1987. The idea of rate bands contained in the 1987 proposal was dropped in favour of minimum rates. A minimum of 15% would apply to the (one) standard rate permitted. Increased or luxury VAT rates would be prohibited. Member States would, in addition, have the option of applying one (or possibly two) reduced rates subject to a minimum of 5%. The optional nature of the reduced rate together with a considerably lengthened list of goods and services to which it might apply represented a second major departure from the 1987 proposal. Moreover, it was also agreed that Member States would be allowed to apply or continue to apply a series of other rates (super-reduced rates, zero rates, "parking" rates etc.) on a transitional basis i.e. until the introduction of the definitive VAT regime scheduled for January 1997.

Despite this agreement, matters were not formalised until October 1992 by the adoption of Directive 92/77/EEC amending the sixth VAT Directive. The delay in adopting the Directive was due mainly to the difficulty that the Council had in resolving certain issues left undecided from 1991. In the end, the Council succeeded in adopting the Directive while deciding to defer decisions on some of the more difficult items until a later date e.g. decisions on the rates to be applied to agricultural outputs, works of art and gold. Otherwise the Directive faithfully reflected the earlier agreement. It made a clear distinction between those elements of the rates package which would become a long-term feature of Community VAT rates law (Article 12) and those which were transient in nature and thus liable to disappear at the end of the transitional period (Article 28).

3. Approximation of VAT rates - Changes in VAT rates applied in Member States

With the adoption of Directive 92/77/EEC, one of the last obstacles to the completion of the internal market programme in the VAT field had been overcome. In fact the Directive merely formalized a process of convergence of VAT rates which had already begun with the Council agreement of 1991.

A glance at Table 1 will show the degree to which the process of convergence evolved between 1987 (the year in which the original proposals were tabled) and 1994. The most obvious difference in the structure and level of VAT rates applied in Member States between 1987 and the present is demonstrated by the reduction in the absolute number of rates applied by Member States as well as the general trend towards convergence in the level of the standard rate. In addition the abolition of the increased (or luxury) VAT rate (six such rates were in force in 1987) and the reduction in the number of reduced rates had contributed significantly to the process of convergence.

Against this, the possibility left open to Member States under the Directive to maintain or create other rates on a transitional basis has meant that convergence still has some way to go to produce a consistent Community wide system of VAT rates. This is particularly evident from the number of super reduced VAT rates still in force in Member States and the (relatively modest) use of "parking" rates, all of which are scheduled to disappear at the end of the transitional period - these questions are considered in greater detail in Chapter 7.

As regards the level of the rates, it will be seen that levels of the standard rate vary between 15% and 25% while reduced rate levels vary from 5% to 12.5%. However, the (simple) average of the standard rate applied across the Community is now just over 18% while the average reduced rate is just under 6%.

The process of convergence has also had a small effect on the weighted average VAT rate calculated for the Community as a whole - as can be seen from the following estimates

Weighted average rate (EC-12)	**1992**	**1993**
all rates 13.76	13.89	
standard rate	16.79	17.14
reduced rate	5.85*	5.70*
increased rate	26.12	-

*including zero rates

The weighted average of the rates applied generally throughout the twelve Member States increased very slightly between 1992 and 1993. This results from an increase in the average standard coupled with a decrease in the average reduced rate applied Community-wide.

Clearly the question of further convergence in VAT rates will again be taken up in the context of the discussions to take place on the introduction of the definitive VAT regime.

4. VAT rates and the functioning of the internal market - the influence of VAT rates on cross-border purchasing patterns

The phenomenon of cross-border shopping by private persons is not something new which commenced with the lifting of frontier controls and the abolition of travellers' allowances in January 1993. In many ways the entry into force of the new VAT regimes "legitimized" existing intra-Community purchasing patterns which had evolved over a considerable period of time (i.e. decades). It had always been the Commission's concern that the completion of the internal market should create a dynamic economic opportunity for business, trade and industry to develop and expand in a market free of administrative obstacles and burdens. At the same time the Commission was anxious to ensure that the single market was built on solid foundations within an equitable and fair regulatory framework. In the field of indirect taxation for example it was essential to guarantee in a Community without border controls, that distortions of competition or deflections of trade did not occur as a result of fiscal factors such as wide disparities in VAT rates.

In order to assess the effect of the abolition of fiscal frontiers on cross-border purchasing patterns, the Commission contracted an outside consultant to study this question on the basis of the available evidence since January 1993.[2] The study had three key objectives

1. to identify any discernible changes in the pattern of purchases made by private individuals brought about by the lifting of restrictions on cross-border purchases on 1 January 1993;

2. to identify the markets which may have experienced shifts in the terms of competition or the pattern of trade as a result of the remaining divergences of rates or excise duty between Member States

3. to quantify as much as possible the main factors giving rise to any such distortions of trade and competition

The study covered all internal borders of the Union; its scope for VAT purposes included goods listed in Annex H of the sixth Directive but excluded distance sales, sales of new means of transport, works of art and antiques.

The overall conclusions of the study revealed that

> generally speaking, apart from the German/Danish frontier there were no major changes in the patterns of cross-border purchasing behaviour due to differences in VAT rates alone following the abolition of fiscal frontiers
>
> the non-harmonization of excise duties has always caused significant cross-border shopping decisions by individuals, although differences in tax-exclusive prices also contribute to this phenomenon. The freedom to purchase larger quantities of duty-paid goods in other Member States since 1 January 1993 has compounded the effect

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[2] "VAT and excise duties: changes in cross-border purchasing patterns following the abolition of fiscal frontiers on 1 January 1993" (Price Waterhouse) - August 1994

of non-harmonization of the duty rates, and has led to some further changes in shopping patterns in certain cases.

The findings of the study as it concerns individual categories of products will be commented upon in greater detail elsewhere in this report. As a general comment, however, it is noteworthy that as regards VAT, the study finds that no dramatic changes in purchasing patterns have taken place since January 1993 although the situation at the border between Germany and Denmark is described as "volatile". Cross border shopping is of particular importance at the following borders viz. Germany/France (for domestic durable goods), Germany/Denmark (for domestic durable goods) and Luxembourg/Belgium (for jewellery and watches); however, no significant increases have taken place over the last eighteen months. In addition, as regards goods subject to reduced rates of VAT, cross-border shopping is only taking place on a limited scale with the exception of foodstuffs; the latter has, however, always been a feature of intra-Community shopping and again nothing of significance has been noted since January 1993. It is also worth noting that it has proved impossible to come up with recent reliable estimates of the magnitude of these cross-border shopping flows broken down by product.

These findings can, in turn, lead one to conclude that a sufficient degree of VAT rate approximation had taken place by January 1993. Before reaching any definite conclusions on this matter it would, however, be prudent to bear a number of other relates issued in mind:

- firstly, it should be remembered that considerable restrictions on the freedom of business to carry out certain types of cross-border selling have also been in force since January 1993 as a result of the special regimes applicable to distance selling and sales of new means of transport. These regimes place considerable obligations on sellers such as the obligation for distance sellers to remit the tax receipts to the Member State of final consumption once sales have exceeded an annual threshold which in certain cases is as low as 35.000 ECU. In these circumstances distance sellers may not feel encouraged to seek extra sales in other Member States because of the associated fiscal obligations;

- secondly, the role played by differences in rates of indirect taxation compared to other factors in influencing a consumers decision to indulge in cross-border shopping needs to be examined. In this connection the study demonstrates that tax rate differentials will obviously have some influence on the price of a product but that this effect can be reduced or magnified through the influence of other factors. Tax differentials are an important factor, the contribution of which is particularly important in the case of excise products or where significant differentials in VAT rates may exist, Germany/Denmark being the most obvious case in question.

The study also identifies, however, many other non-tax factors which also influence cross-border shopping patterns. These factors include *inter alia* several distinct but interrelated categories such as

other price-related factors - these include factors such as exchange rate fluctuations, changes in the price of petrol or other travel-related costs, reductions in cost brought about by more efficient wholesale or retail distribution networks;

non-price-related factors - very often a consumers decision may be influenced by incentives such as more flexible opening hours, product range and quality, guarantee terms, after-sales service etc.;

obstacles - language, distance and geographical barriers are the elements which constitute the single most significant factor in preventing the great majority of Community citizens from partaking in cross-border shopping activity

These findings have been reinforced by the findings of a recent Eurobarometer poll carried out across the Community in April and May of 1994[3] on the Commission's behalf. In response to the question as to whether they had personally benefited from the abolition of travellers' allowances and customs controls since 1 January 1993, less than 20% of those who were aware that cross-border shopping could be carried out freely, responded positively. This reply indicates that cross-border shopping is by its very nature something which only a relatively limited number of people will ever be in a position to take advantage of.

None of these conclusions are particularly surprising; indeed most are a matter of common sense. What needs to be noted is the fact that cross-border shopping is something that has always taken place since long before the single market was created. The abolition of border controls and travellers' allowances in January 1993 facilitated this process by allowing private citizens unrestricted access to the market. It did not, however, give rise to any unexpected VAT-induced distortions of competition or deflections of trade because, firstly, the necessary approximation of VAT rates had taken place for those product sectors liable to be subject to cross-border shopping and secondly, because of the introduction of the special regimes for distance selling. In consequence if there is insufficient evidence to justify major changes to the VAT rates system, the time has now come to give some thought to relaxing the rather restrictive conditions contained in the special regimes and in particular to the question of increasing the rather limited thresholds currently applied to such trade.

[3] Eurobarometer 41.0 of the European Commission by INRA (Europe), 5 July 1994

5. VAT rates and the functioning of the internal market - the influence of VAT rates on intra-Community trade by taxable persons

In examining the effects of the abolition of fiscal frontiers on the functioning of the internal market, the Commission has tried to assess whether differences in VAT rates as between Member States has influenced behaviour of businesses (i.e. taxable persons) involved in intra-Community trade. Difficulties arise in making any assessment due to the lack of precise information on the pattern of behaviour of taxable persons making purchases from or sales to taxable persons in other Member States. Trade of this kind was not included within the scope of the study referred to in Chapter 4 on the grounds that under a destination-based taxation system, the rate of VAT applicable in the Member State of origin should not in principle influence the purchasing decision of an enterprise.

Under the VAT transitional regime, VAT continues to be levied in the Member State of destination of the goods in trade between taxable persons. It is difficult to establish, therefore, why differences in rates should play any significant role in the decision-making process of businesses involved in such trade,

However, there are a limited number of cases where certain types of taxable persons are permitted to purchase goods in another Member State and pay the rate of VAT applicable in the Member State of origin. These cases concern supplies made by taxable persons in one Member State to one of the following purchasers in another Member State

- small businesses operating under exemption thresholds
- flat rate farmers
- taxable persons carrying out transactions which are exempt under Article 13 of the Sixth VAT Directive
- non-taxable legal persons purchasing goods under an annual threshold of 10,000 ECU.

In all these cases, the purchasing decision made by one of these entities may be influenced by the rate of VAT applicable in the Member State where the purchase is made. These cases were the subject of a further study carried out on the Commission's behalf in a separate "own resources" related context[4]. This study found that there are no figures available relating to the volume of trade covered by these cases and that estimates of the amount of trade involved are difficult to make. The information available to the consultants suggested that the trade was unlikely to be significant particularly in the context of the overall volume of intra-Community trade. The study found that in almost all cases where firms might be tempted to purchase goods in other Member States as a result of lower VAT rates, the net effect of this trade on the calculation of own resources was still considered to be negligible. No evidence of significant changes in cross-frontier purchasing behaviour of taxable persons was found at any borders between Member States with important differences in VAT rates.

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[4] The extent of transboundary transactions taxed according to the origin principle (Deutsches Institut für Wirtschaftsforschung - September 1994)

The study did come across particular cases of German farmers subject to flat rate VAT schemes who consistently purchase chemical fertilisers and pesticides, which in Germany are subject to the standard rate, directly from Luxembourg, France, the Netherlands or Belgium where such products are taxed at reduced rates. In this case, however, the farmers in question are acting in the manner of a private person by purchasing at the most advantageous price that the market has to offer. The Commission does not believe that such cases can be considered to be creating distortions of competition. In any event, the solution to any problem in this specific area, if indeed there are problems, lies in the hands of the German authorities themselves because they can always avail themselves of the option to tax fertilisers and pesticides at the reduced rate in Germany on the grounds that these products come within the scope of Category 10 of Annex H. If the German authorities were to take this option however, they could also in consequence reduce the level of flat rate compensation currently available to German farmers under the German flat rate scheme.

The Commission must conclude, therefore, that in the absence of any hard evidence of significant distortive effects on the competitive situation of taxable persons involved in intra-Community trade caused by differences in VAT rates, there is no reason to assume at present that the internal market is functioning in anything other than a satisfactory manner.

6. The reduced VAT rate - reviewing the scope of Annex H

The third paragraph of Article 12 (3) (a) of the sixth VAT Directive states that

> "Member States may also apply either one or two reduced rates. These rates shall be fixed as a percentage of the taxable amount which may not be less than 5% and shall apply only to supplies of the categories of goods and services specified in Annex H."

The second paragraph of Article 12 (4) states that

> "On the basis of a report from the Commission, the Council shall, starting in 1994, review the scope of the reduced rates every two years. The Council, acting unanimously on a proposal from the Commission, may decide to alter the list of goods and services in Annex H."

This chapter examines the manner in which Article 12 (3) (a) has been applied by Member States in practice in order to determine whether any changes to the scope of the reduced VAT rates should be made under the two-year review procedure provided for in Article 12 (4). The chapter concentrates on whether any change to the present provisions are required to overcome problems of distortions of competition. Since the entry into force of the new provisions, the Commission has received numerous representations from various trade and industry federations pleading for the inclusion of their sector in the scope of the reduced rate at the occasion of the next review. The Commission view that it is too soon to consider changes in their scope for other reasons, not least because broader issues of rate coverage are likely to be more manageable against the background of Council conclusions on the shape of the 1997 definitive VAT system. The general question of what future action is necessary on the approximation of VAT rates in this connection, will be taken up in the context of the Commission's approach to the introduction of the definitive regime.

Goods and services subject to the reduced rate

It will be recalled that in its meeting of 18 December 1989, the ECOFIN Council decided that the reduced rates would be reserved in particular for essential goods and services meeting a social or cultural policy objective. The categories subsequently included in Annex H of the amended sixth Directive by and large reflected these criteria. In addition, the process of selection of the categories concerned by the Council generally followed the approach advocated by the Commission which was that the list should contain only those categories of goods and services which were taxed by a majority of Member States at reduced VAT rates.

A glance at Table 2 will show that this pattern was and continues to be the case. The information available to the Commission indicates that in all but one of the seventeen categories set out in Annex H, the majority of Member States have availed themselves of the option provided by the Directive to tax the supply concerned at the lower rate. In certain categories, the practice has been for the overwhelming majority of Member States to use reduced rates (or zero rates) or exemptions (where the service is of a kind deemed to be in the public interest and as such covered by Article 13 of the 6th VAT Directive, e.g. admissions to public theatres, museums etc.). This practice is especially prevalent in the case of supplies of foodstuffs, water, pharmaceutical products, medical equipment, passenger

transport, admissions to cultural events and agricultural inputs. In the case of the other categories, the number of Member States opting to tax at reduced rates is somewhat smaller but with the exception of Category 15 (undertaker's services etc.) all categories have justified their inclusion on numerical grounds at least, by the fact that they reflect majority practice within the Community in regard to reduced rate taxation.

It should not be forgotten of course, that Member States have extended the practice of selecting Categories from Annex H for inclusion in their reduced rate to choosing particular goods and services from *within* individual categories for this treatment. This means that while superficially there may seem to be a good deal of similarity between the practices of Member States in terms of Category selection, coverage of any individual category may in fact differ from Member State to Member State depending on how Member States choose to define goods or services from within any given category in their own national legislation.

This outcome is not, however, particularly surprising. Once the Council abandoned the idea of making use of the reduced rate obligatory, the need to ensure that Member States would agree to apply each category in a uniform manner no longer made sense. Making the reduced rate optional did, however, facilitate the reaching of an agreement in the Council on category definitions. Instead of endless discussions about what should or should not be included in a category, it only became necessary for the Council to agree on the broad outline of a general definition for each category at Community level (i.e. essentially to decide what fell outside the scope of a category). Subject to respecting this general definition (by not enlarging the scope of a category) each Member State was subsequently free to use, in its implementing legislation, its own definition for categories depending on what particular group of products or services it wished to tax at the reduced rate. For categories referring to goods Member States have also the possibility of using the combined nomenclature to establish its precise coverage. However, not all Member States have adopted this practice or, at least, if they have, the information has not been included in the implementing legislation forwarded to the Commission for examination.

Turning to the question of distortions of competition, in preparing this report the Commission was at pains to establish whether the introduction of an optional reduced rate had resulted in an increased potential for distortions of competition in the single market. In many ways, it can be argued that in drawing up the list of categories of goods and services eligible for optional reduced rating, the Council had in effect decided that none of the categories concerned were of a type liable to give rise to large-scale distortions of competition as a result of significant differences in VAT rates. The categories of services in Annex H by their very nature are not the kinds of economic activities which lend themselves to significant cross-border applications. As far as goods are concerned, it can also be argued that again, none of categories involved refer to the types of products which private persons would in the normal course of events, travel significant distances to purchase.

These assumptions have in fact been borne out by the study referred to in Chapter 4 which was undertaken on the Commission's behalf with the object of examining this very question. The study looked in particular at those categories of goods contained in Annex H where the VAT rate applicable differed widely as between certain Member States viz. foodstuffs, pharmaceutical products, medical equipment, children's' car seats, books newspapers and periodicals. In most cases the study found that no discernible increases in cross-border purchasing patterns had taken place since January 1993. In certain cases, factors other than

differences in VAT rates play a more determining role in influencing a consumer's choice e.g. cultural or language considerations on the case of books, newspapers and periodicals, or prescription regimes and reimbursement schemes in the case of pharmaceuticals and medicines.

The only category where significant cross-border shopping activity is taking place is in the category of foodstuffs. Such shopping has, however, always been a feature of intra-Community trade in this sector. Moreover, the evidence shows that purchasers of foodstuffs tend in many cases to go against the pattern which VAT rate differences might lead one to expect, e.g. Germans tend to buy certain foodstuffs in Denmark despite the higher VAT rate applicable; in contrast, no significant purchases of foodstuffs in the UK by cross-border shoppers from France or Belgium has been reported even though most foodstuffs in the UK are zero-rated.

Goods and services subject to the standard rate

In addition to looking at the reduced rate, the study referred to above also examined the situation with regard to possible distortions of competition or changes in cross-border purchasing patterns in relation to goods subject to the standard rate. The following types of goods were surveyed viz. domestic electrical durable goods (domestic electric appliances, video/audio/photographic material, computer hardware and software and sporting goods and toys), furniture, glassware, etc. and jewellery, watches and the like.

The study once again shows that cross-border shopping habits did not change in any significant way. The expected explosion in cross-border shopping in expensive consumer durables between Germany and Denmark following the abolition of travellers' allowances has not materialized despite the margin of difference in the respective VAT rates. In other cases, the abolition of travellers' allowances meant that cross-border shopping actually increased in Member States with VAT rates higher than their neighbours because of the availability of greater choice in the higher taxing Member State (Belgium/Luxembourg). On the Spanish/French border there were no great changes in the magnitude of cross-border shopping although the depreciation of the value of the peseta may have had an impact. No major change was noticed in purchasing patterns across the other sensitive borders. In all cases cross-border shopping has been an established feature of these border areas since long before the abolition of travellers' allowances and frontier controls in January 1993.

The particular case of agricultural outputs

The Council is required to take a decision before 31 December 1994 on the taxation of agricultural outputs other than foodstuffs after 1 January 1995. This was one of the issues left unresolved from the discussions of the fiscal package of 1992. At that time the Council decided that a standstill arrangement would apply under which those Member States which were already applying a reduced rate to supplies of agricultural outputs would be permitted to continue to apply them; those Member States which applied a standard rate would continue to apply this rate.

The Commission will table a separate proposal on this issue which will be accompanied by an explanatory memorandum outlining the reasons why it has formulated the proposal in the manner it has.

* * * *

In view of the foregoing, the Commission is satisfied that the provisions of Article 12 (3) of the amended sixth Directive are working well in practice thanks mainly to the degree of rate convergence which had taken place as between Member States since the Council agreement of 1991. There is no evidence of any significant changes in the pattern of cross-border purchasing by private individuals following the abolition of border controls. In the absence therefore of any significant distortions of competition or deflections of trade caused by differences in VAT rates, the Commission sees no reason or justification to change the contents of Annex H of the sixth Directive at the present time on these grounds either through the addition of new categories of goods or services or the deletion of any of the existing categories. The Commission will, however, address the question of further approximation of VAT rates in the longer term in the context of the discussions on the changeover to the definitive VAT regime.

7. The transitional VAT rate provisions

Article 28 (2) (g) of the sixth Directive reads as follows:

> "On the basis of a report from the Commission, the Council shall, before 31 December 1994, re-examine the provisions of subparagraphs (a) to (f) above in relation to the proper functioning of the internal market in particular. In the event of significant distortions of competition arising, the Council, acting unanimously on a proposal from the Commission, shall adopt appropriate measures."

Article 28 (2) subparagraphs (a) to (f) set out various VAT rate measures which Member States are permitted to maintain in force during the transitional period referred to Article 28 1 i.e. in principle up to 31 December 1996. This chapter examines the use that Member States have made of the provisions of these subparagraphs and the effects their continued application may have on the functioning of the internal market.

The purpose of Article 28 (2) was to bring together all those measures which do not in principle form a permanent feature of the long-term VAT rates landscape of the Community. In most cases, it would have been impossible for the Council to reach agreement on the fiscal package in October 1992 had not some form of temporary derogation been conceded to Member States permitting them to maintain in force for a limited period after 1992 certain rates not covered by Article 12 (3). Article 28 (2), in consequence, covers a variety of temporary rate provisions including measures of considerable social and political importance to the Member States concerned, measures which enable Member States to defer full implementation of Article 12 (3) for the time being and measures covering certain goods and services for which Member States secured special treatment on a temporary basis.

Article 28 (2) (a) deals with exemption with refund of the tax paid at the preceding stage and reduced rates lower than the minimum rate laid down in Article 12 (3) in respect of the reduced rates. In more common parlance, these are known as zero rates and super-reduced rates respectively. The Article allows Member States to maintain after 1992 those zero rates and super-reduced rates which were in force on 1 January 1991 in accordance with Community law. A list of Member States covered by this provision is set out in Table 3. It will be noticed that as regards zero rates, only the United Kingdom and Ireland maintain zero rates on a large scale following the decision by the Portuguese authorities to abolish zero rating in Portugal in 1992.

The study on changes in cross-border purchasing patterns referred to earlier has also looked at the situation with regard to certain products covered by zero and super-reduced rates (e.g. foodstuffs, children's clothing). However, in no case was any significant change in cross-border purchasing patterns established. In fact in many cases cross-border shopping for the products concerned is negligible. The Commission is of the opinion therefore that it would not be justified at this stage for it to table a formal proposal abolishing or amending these rates. However, this is not to say that a similar conclusion should be drawn in the context of the definitive VAT regime. It is likely that a rate system with fewer (or no) exceptions to the general rule will then be appropriate, and the Commission would suggest that Member States themselves should examine the position to see whether any of these special rates might be abolished in advance of the deadline for changeover to the definitive regime.

Article 28 (2) (b) enables Member States wishing to abolish zero rates in respect of goods or services other than those specified in Annex H to apply a reduced rate to such supplies on a temporary basis.

The United Kingdom has recently made use of this provision by its decision to abolish zero rating on domestic fuel and power and to replace it with an 8% rate initially and by the full rate in due course. In view of the comments under the preceding paragraphs on the eventual need to abolish zero and super-reduced rates the Commission is of the opinion that the provisions of Article 28 (2) (b) are useful and should remain in force.

Article 28 (2) (c) applies to the two Member States i.e., Spain and Luxembourg, which had to increase their standard rate by more than 2% to respect the provisions of Article 12 (3). The Article enables these Member States to apply super-reduced rates to all the categories of goods and services specified in Annex H and, in addition, to restaurant services, children's' clothing and footwear and housing.

Both Spain and Luxembourg have made extensive use of this provision (see Table 3) which was introduced to compensate for the potential increase in inflationary pressure as a result of increasing their standard rate by two points. The implementation of this provision has not, however, given rise to any major distortions of competition in the case of Spain although some complaints have been received in regard to the situation as between Belgium and Luxembourg where significant differences in VAT rates exist for the same category of supply. As these measures are meant to be temporary in nature, the Commission would suggest in line with its earlier comments that both Member States should themselves consider for how long these provisions need to continue to apply.

Article 28 (2) (d) enables those Member States which applied a reduced rate to restaurant services, children's' footwear and clothing and housing on 1 January 1991 to continue to apply these rates on a transitional basis.

The long term situation with regard to the appropriate rate to be applied to these goods and services should be discussed in the context of the review of Annex H referred to in Article 12 (4). Pending the outcome of this review the Commission has no suggestions to make at present on the desirability of maintaining these reduced rates. It would point out, however, that the present situation cannot continue indefinitely because it will otherwise create a structural inequality in VAT rates legislation.

Article 28 (2) (e) enables Member States to apply a "parking" rate of a minimum of 12% to supplies of goods and services not listed in Annex H but to which the Member State concerned had applied a reduced rate on 1 January 1991.

A number of Member States have made use of this provision (see Table 3 for details). The Article is useful in that it facilitates the transition to a more coherent long-term VAT rates structure throughout the Community. The Commission feels therefore that these provisions should continue in force for the time being.

Article 28 (2) (f) enables Greece to continue to apply specially reduced rates to certain Greek Islands and Departments.

To the best of the Commission's knowledge the implementation of these specially reduced rates has not given rise to any distortions of competition in intra-Community trade. Their implementation was in fact a special measure designed to compensate for competition that these Islands and Departments may have faced from non-Community countries. The Commission is of the opinion that these measures may continue in force for the time being.

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In conclusion, the Commission considers that the implementation of the transitional VAT measures has not given rise to any significant distortions of competition or deflections of trade. The Commission is of the opinion that these measures may continue in force for the duration of the transitional regime.

The Commission would recall that in its initial proposals of 1987 on the approximation of VAT rates it had proposed that each Member State should be limited to two VAT rates within the framework of the internal market - a standard rate and a reduced rate - without any zero rates or super-reduced rates. The continued application of all of the derogations permitted to Member States, particularly those referring to super-reduced rates and zero rates, has resulted in a plethora of different VAT rates being applied across the Community with the risk of possible distortions in certain sectors. This situation is at odds with the need for simplification of procedures and the reduction of tax compliance costs which are indispensable for the strengthening of the internal market.

The Commission would note, therefore, that the introduction of the definitive VAT regime would be facilitated were Member States themselves to consider changing these provisions initially by reducing the number of rates they apply generally and where possible replacing the rates by one of the rate options open to Member States under Article 12 (3). This question will be taken up in the Commission communication on the introduction of the definitive VAT regime.

8. Conclusions

This report sets out to fulfil the reporting obligations placed on the Commission by the Council when adopting legislation on VAT rate approximation in 1992. In fulfilling these obligations, the Commission wishes at the same time to provide the Council with an adequate assessment of the functioning of the VAT rates regime in the framework of the transitional VAT regime during the first two years of a Community without internal frontiers. The Commission thus hopes that the report will enable the Council to take a view as to whether the VAT rate arrangements are operating as originally intended in the absence of border controls or whether any amendments are necessary.

Based on such information as is available, the Commission believes that the position is generally satisfactory with regard to the functioning of the new system of VAT rate approximation. No significant changes in cross-border purchasing patterns have been found. Similarly there have been no significant distortions of competition or deflection of trade brought about as a result of excessive disparities in VAT rates as between neighbouring Member States. The Commission concludes that in these circumstances there is no justification at present for introducing major changes to the essential level or structure of the new rates system or to the scope of the reduced rate. In addition, the Commission concludes that the provisional VAT rate provisions currently in force do not need to be amended for the time being given that these measures are due to be phased out by the end of the transitional period. If Member States were themselves to take action to reduce the number of rates generally applied this would facilitate discussions on the introduction of the definitive VAT regime. The debate on this and other VAT-related issues will be taken up in the context of the Commission communication on the introduction of the definitive regime.

TABLE NO. 1

EVOLUTION OF VAT RATES APPLIED IN MEMBER STATES BETWEEN 1987 AND 1994

MEMBER STATES	REDUCED RATES				STANDARD/INTERMEDIATE RATES				INCREASED RATES			
	1987	1992	1993	1994	1987	1992	1993	1994	1987	1992	1993	1994
GERMANY	7	7	7	7	14	14	15	15	-	-	-	-
BELGIUM	1/6	1/6	1/6	1/6	19/17	19,5	19,5	20,5/12	25/25+8	-	-	-
DENMARK	-	-	-	-	22	25	25	25	-	-	-	-
SPAIN	6	6	3/6	3/6	12	13	15	15	33	28	-	-
GREECE	3/6	4/8	4/8	4/8	18	18	18	18	36	36/-	-	-
FRANCE	2,1/4/5,5/ 7/13	2,1/5,5	2,1/5,5	2,1/5,5	18,6/28	18,6	18,6	18,6	33 1/3	22	-	-
IRELAND	1,7/10	2,3/10	2,5	2,5	25	21/10/ 12,5	21/12,5	21/12,5	-	-	-	-
ITALY	2/9	4/9	4/9	4/9	19	19/12	19/12	19/13	38	38	-	-
LUXEMBOURG	3/6	3/6	3/6	3/6	12	15	15	15/12	-	-	-	-
NETHERLANDS	6	6	6	6	20	18,5/17,5	17,5	17,5	-	-	-	-
PORTUGAL	8	8/5	5	5	16	17/16	16	16	30	30	30*	30*
UNITED KINGDOM	-	-	-	-	15	17,5	17,5	17,5	-	-	-	-

* Note: Portugal: Application of the 30% rate is contrary to Community law since 1. January 1993. Portugal has announced that this rate will be abolished in its budget law for 1995.

APPLICATION OF REDUCED VAT RATES BY MEMBER STATES TO THE CATEGORIES OF GOODS AND SERVICES CONTAINED IN ANNEX H OF THE SIXTH VAT DIRECTIVE (AS AMENDED)

CAT.	BE	DK	DE	GR	SP	FR	IR	IT	LUX	NL	PO	UK
1 **Foodstuffs**	RR	SR	RR	RR	SR SRR	RR	ZR RR SR	SRR RR PR	SRR	RR	RR SR	ZR
2 **Water supplies**	RR	SR	RR	RR	RR	RR	EX..	RR	EXEMPT	RR	RR	ZR SR
3 **Pharmaceutical products**	RR SR	SR	SR	RR SR	SRR SR	RR SR	ZR	RR SR	SRR SR	RR SR	RR SR	ZR SR
4 **Medical equipment**	RR	SR	RR	RR	RR	RR	ZR	RR	SRR	RR	RR	ZR
5 **Transport of passengers**	RR	EXEMPT	RR SR	RR	RR SR	RR	EXEMPT	RR PR	EXEMPT SRR	EXEMPT RR	RR	ZR
6 **Books, newspapers and periodicals**	RR ZR	SR	RR	RR	SRR	SRR RR	ZR RR SR	SRR	SRR	RR	RR	ZR
7 **Admissions to shows, etc. Broadcasting services**	EXEMPT RR PR SR	EXEMPT SR	EXEMPT RR SR	EXEMPT RR SR	EXEMPT RR SR	SRR RR SR	EXEMPT RR SR	SRR RR SR	SRR SR	EXEMPT RR SR	EXEMPT RR SR	SR
8 **Services of writers, composers, etc.**	PR	SR	RR	RR	RR	RR	SR	RR SR	SRR	SR	SR	SR
9 **Social housing**	RR	SR	SR	RR	SRR	RR SR	RR	SRR RR	SRR	RR	RR	SR

10 Agricultural inputs	RR	SR	RR	RR	RR	RR	RR	SRR RR	SRR	RR	RR	SR
11 Hotel accommodation	RR	SR	SR	RR	RR SR	RR	RR	RR PR	SRR	RR	RR	SR
12 Admission to sporting events	RR	SR	SR	RR	RR SR	SR	EXEMPT	RR	SRR	SR	RR	ZR
13 Use of sporting facilities	RR	EXEMPT	ZR	RR	EXEMPT SR	SR	RR	SR	SRR	SR	RR	ZR
14 Social services	RR	SR	RR	RR	RR	SR	EXEMPT	SR	SRR	SR	SR	ZR
15 Cremation services	RR	SR	SR	RR	RR	SR	SR	SR	SRR	SR	SR	ZR
16 Medical and dental care	RR SR	SR	RR	RR	RR	RR SR	EXEMPT SR	SRR	SRR	SR	SR	ZR
17 Collection of domestic waste and street cleaning	RR SR	SR	EXEMPT	RR	RR	SRR RR	EXEMPT SR	SRR	SRR	SR	SR	ZR SR

SR: standard rate
RR: reduced rate
SRR: super-reduced rate
PR: parking rate
ZR: zero rate

TABLE N°3

SUMMARY LIST OF SUPER REDUCED RATES OF VAT APPLICABLE IN MEMBER STATES
(note: this list is not exhaustive)

Goods and services (short description)	BE	DA	DE	GR	ES	FR	IE	IT	LUX	PB	PO	GB
Foodstuffs					3		0	4	3			0
Beverages:												
-Mineral water/lemonade									3			
Children's clothing and footwear							0		3			0
Pharmaceutical products					3	2,1	0		3			0
Books				4	3		0	4	3			0
Newspapers	0	0		4	3	2,1		4	3			0
Periodicals	0			4	3	2,1		4	3			0
TV licence						2,1		4				
Hotels									3			
Restaurants									3			
Admissions to cinema, theatre, cultural events.				4					3			
Admissions to sporting events.									3			
Cut flowers and plants.									3			
Treatment of waste and waste water.						2,1		4	3			0
Collection of domestic waste.								4	3			0
Transport of persons									3			0

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Building sector: **- Supply of new buildings** **- Renovation works and repairs** **- Construction works of new buildings**					3 3 3			4 4 4	3 3 3			0* 0* 0*
Works of art, antiques												0 (if imported)
Medical equipment							0	4	3			0
Water supplies etc.												0
Agricultural inputs							0		3			
Social services/charities etc.									3			0

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* UK: The zero rate applies to supplies of domestic buildings and approved repairs to listed buildings

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