

## II

*(Acts whose publication is not obligatory)*

## COUNCIL

## COUNCIL DECISION

of 3 December 1990

authorizing the Federal Republic of Germany to grant an exemption from Articles 14 and 15 of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes for Soviet armed forces stationed on the territory of the Federal Republic of Germany

(90/640/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value-added tax : uniform basis of assessment <sup>(1)</sup>, hereafter referred to as the 'Sixth Directive', as last amended by the Eighteenth Directive 89/465/EEC <sup>(2)</sup>, and in particular Article 30 thereof,

Having regard to the proposal from the Commission,

Whereas the Federal Republic of Germany has requested a derogation from Articles 14 and 15 of the Sixth Directive resulting from an obligation in the context of the Treaty between the Federal Republic of Germany and the Union of Soviet Socialist Republics on the conditions under which Soviet armed forces are to stay for a limited period in the territory of the Federal Republic of Germany and on the arrangements for their planned withdrawal from that territory;

Whereas the background to and the prospects for the above Treaty justify such a derogation;

Whereas in the light of recent political changes an equal VAT treatment for the armed forces stationed on the territory of the old Länder of the Federal Republic of

Germany and referred to in Article 14 (1) (g) third indent and in Article 15 (10) third indent of the Sixth Directive and the Soviet armed forces stationed on the territory of the new Länder of the Federal Republic of Germany is justified,

HAS ADOPTED THIS DECISION :

*Article 1*

By way of derogation from Article 14 (1) (g) third indent and Article 15 (10) third indent of the Sixth Directive, the Federal Republic of Germany is hereby authorized to exempt, with refund of the tax paid at the preceding stage, the following transactions :

- imports of equipment of the Soviet armed forces as well as import of proper quantities of food, supply goods and other goods to be used by the Soviet armed forces, their members or the families of these members;
- supplies of goods and services to the Soviet armed forces ordered by an official procurement office of the Soviet army to be used or consumed by the Soviet armed forces, their members or the families of these members.

*Article 2*

The Federal Republic of Germany shall adopt such provisions as are necessary to prevent any fraud resulting from the transactions referred to in Article 1.

<sup>(1)</sup> OJ No L 145, 13. 6. 1977, p. 1.

<sup>(2)</sup> OJ No L 226, 3. 8. 1989, p. 21.

*Article 3*

Done at Brussels, 3 December 1990.

This Decision is addressed to the Federal Republic of Germany.

This Decision shall apply from 3 October 1990. It shall expire on the date of the definitive departure of the Soviet armed forces from the territory of the Federal Republic of Germany.

*For the Council*

*The President*

G. CARLI

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