

COMMISSION DECISION

of 1 February 1994

amending Decision 90/179/Euratom, EEC authorizing the Federal Republic of Germany to use statistics for years earlier than the last year but one and not to take into account certain categories of transactions or to use certain approximate estimates for the calculation of the VAT own resources base

(Only the German text is authentic)

(94/72/EC, Euratom)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to Council Regulation (EEC, Euratom) No 1553/89 of 29 May 1989 on the definitive uniform arrangements for the collection of own resources accruing from value added tax⁽¹⁾ and, in particular, Article 13 thereof,

Whereas, pursuant to Article 28 (3) 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⁽²⁾, hereinafter called 'the Sixth Directive', the Member States may continue to exempt or tax certain transactions; whereas these transactions must be taken into account for the determination of the value added tax resources base;

Whereas with effect from 1 January 1990 the possibility afforded Member States of continuing to tax or exempt certain transactions listed in Annexes E and F to the Sixth Directive was terminated by virtue of Article 1 (1), first paragraph, and (2) (a) of Council Directive 89/465/EEC⁽³⁾; whereas, consequently, the authorizations granted in this connection by the Commission for the purposes of determining the VAT own resources base should also be discontinued;

Whereas, in the case of the Federal Republic of Germany, the Commission, on the basis of Regulation (EEC, Euratom) No 1553/89, adopted Decision 90/179/Euratom, EEC⁽⁴⁾ authorizing the Federal Republic of Germany, with effect from 1989, not to take into account certain categories of transactions and to use certain approximate estimates for the calculation of the VAT own resources base;

Whereas, since 1 January 1991, the Federal Republic of Germany has taxed the transactions referred to in point 15 of Annex F to the sixth VAT Directive; whereas the

authorization to use certain approximate estimates for these transactions should be discontinued with effect from that date;

Whereas, since 1 July 1990, the Federal Republic of Germany has taxed the supply (Überlassung) and maintenance (Instandhaltung) of terminals (Endstelleneinrichtungen) by the Federal Post and Telecommunications Authority, Deutsche Bundespost Telekom; whereas the authorization to use approximate estimates to calculate telecommunications services and supplies of goods incidental thereto should therefore be restricted with effect from 1 July 1990;

Whereas the Advisory Committee on Own Resources has approved the report recording the opinions of its members on this Decision,

HAS ADOPTED THIS DECISION:

Article 1

Decision 90/179/Euratom, EEC is amended as follows:

1. The last part of Article 3 (3) is amended to read as follows in respect of transactions conducted on or after 1 July 1990:
'with the exception of the supply (Überlassung) and maintenance (Instandhaltung) of terminals (Endstelleneinrichtungen) by the Federal Post and Telecommunications Authority, Deutsche Bundespost Telekom (Annex F, ex point 5)';
2. Article 3 (4) is repealed in respect of transactions conducted on or after 1 January 1991.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 1 February 1994.

For the Commission

Peter SCHMIDHUBER

Member of the Commission⁽¹⁾ OJ No L 155, 7. 6. 1989, p. 9.⁽²⁾ OJ No L 145, 13. 6. 1977, p. 1.⁽³⁾ OJ No L 226, 3. 8. 1989, p. 21.⁽⁴⁾ OJ No L 99, 19. 4. 1990, p. 28.