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POSITION PAPER

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“Green Paper on the future VAT System”

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The European Council for Motor Trades and Repairs – CECRA - is a European federation bringing together 22 national professional associations representing the interests of motor trade and repair businesses and 14 European Dealer Councils on behalf of vehicle dealers for specific makes.

CECRA represents on a European scale:

- 380,000 enterprises of motor trade and repair businesses, of which 120,000 are authorized dealers and repairers with a contractual relationship with a vehicle manufacturer/importer (71,000 of which are selling and repairing vehicles, 42,000 only repairing and 7,000 are selling spare parts) and 260,000 independent repairers.
- Our members (sales and services) employ about 2.8 million people (of which 1.55 million are employed by authorized dealers, 1.15 million by independent repairers and 0.15 million in the distribution of spare parts). It represents 25% of the jobs in the entire automotive sector.
- The turnover of sales and service of vehicles is larger than that of the manufacturing industry and amounts to 800 billion € of which 630 billion € is from sales of new and used vehicles, 80 billion € for repair and maintenance and 90 billion € for sales of spare parts.
The net profit before tax was between 0.0 - 0.5% of the turnover in 2009.
- 12,000 motorcycle dealers with 81,000 employees and approx. 13.1 billion € turnover.
- 110,000 fuel businesses with 440,000 employees and approx. 250 billion € turnover.

The main aim of CECRA is to promote the interests of its members and above all maintain a favorable European regulatory framework for the 380,000 enterprises of motor trade and repair businesses it represents through national associations and European Dealer Councils.

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CECRA's answers to some questions asked in the green paper

Q 1: "Do you think that the current VAT arrangements for intra-EU trade are suitable enough for the single market or are they an obstacle to maximising its benefits?"

CECRA is of the opinion that the current VAT provisions applicable to internal trade (viz. within the EU) meet the requirements of a functional internal market only to a limited extent. The advantages offered by the internal market are not used in an optimal manner, at least by many automotive enterprises. Many motor traders would rather deliberately refrain from selling vehicles tax free to clients in other EU member states, because of the many proofs to be furnished by traders in cases of such cross-border sales, and also because of the altogether high fraud vulnerability of the VAT system.

One of the causes lies certainly in the high complexity of the VAT with its distinctions between the country of origin and country of destination, which gives rise to many problems. It is sometimes not easy for a garage to know in what circumstances and with what documentary proofs it can supply a vehicle tax free to a client in another member state, or if VAT has to be applied or not to the repair of a vehicle belonging to a citizen of another member state. **CECRA is therefore of the opinion that it is an absolute necessity to harmonize the conditions and proofs of tax free deliveries of goods and services union-wide.** This includes a uniform VAT identification number, enabling the supplier of the goods or services to quickly recognize and verify the correctness of the number.

As there are no harmonized rules in this regard, indicating the proofs to be furnished so as to be able to create the required conditions of a tax free cross-border transaction, the requirements applied to such documentary evidences are very different from country to country.

Harmonization or simplification should more particularly take place in the area of proofs to be furnished for tax exemption — especially as regards the VAT identification number — and, in so doing, a reduction of red tape and of the usual extra costs to enterprises.

Q 2: "Do you think that taxation in the Member State of origin is still a relevant and achievable objective?"

CECRA is of the opinion that the creation of a single intra-EU VAT regime is the only way to encourage SMEs to develop their activities on the European market.

The differentiation in treatment between national transactions and intra-EU ones has to be abrogated. **The VAT regime has to become a unique one and should be based on the principle of taxation in the country of origin for the supply of goods as well as for services.**

The principle of taxation in the member state of destination is the cause of too much red tape and bureaucracy and the fear of suppliers mainly linked to the requirement of proof of the real destination of goods and services. Automotive retailers who are specialized in cross-border transactions are currently confronted with a great number of such administrative problems and the obligation of proof of transactions.

Such proof cannot always be easily supplied as in most cases the vehicles are transferred by road and there exists no transportation document. The proof therefore is only based on a number of assumptions which vary from State to State (invoices, delivery vouchers or acknowledgements of receipt of goods, transfer of the sum by certified cheque or even a copy of the registration certificate in the other Member State).

All these facts are not contributing to the creation or the improvement of the functioning of a Single Market. The improvement of this European Internal Market is one of the objectives of the European Commission and a new VAT strategy was one of the 50 proposed measures of the Single Market Act (see Comments of CECRA to the EC Consultation "Towards a Single Market Act").

The standardization of national and intra-EU operations should be based on a total harmonization of VAT rates, exemption and deduction regimes and should imply the removal of the necessity to recuperate VAT paid in a member state other than the member state of origin.

Should the principle of the country of origin not be possible, we see the harmonization of the rules covering the obligations of proof regarding cross-border sales which are now applied in the individual member states, as an absolute necessity. Such union-wide harmonized conditions would have the positive effect that the client, e.g. the vehicle buyer, would immediately know what proofs he has to furnish to the seller or service provider. The EU-harmonized provisions in this regard should stipulate that if the required proofs are given, a tax-free cross-border transaction positively exists — this in connection with an EU-harmonized protection of good faith.

Q 11: "What are the main problems with the current VAT rules for international services, in terms of competition and tax neutrality or other factors?"

Q 12: "What should be done to overcome these problems? Do you think that more coordination is needed at international level?"

CECRA is of the opinion that the basic problem is that the B2B-rules are different to the B2C-rules. One example for this is the following problem.

A typical situation for the European car and truck repair shops is that they are called to road assistance - even at night. After the repair of this broken down vehicles, that are used by business companies, the repair shop has to write a net invoice with the note, that the consumer has to pay the VAT on the service in his state. Because of the current situation, that the European repair shops repair these vehicles often locally on the street, these repair shops are very often not able to generate the evidences, required by the national tax authorities (for example: adjustment of the VAT identification number).

The repair shops have in these cases often the problem, that they are exposed to the risk of liability for the VAT. The subsequent verification of the information that has been given by the driver of the foreign vehicle in the situation of the roadside assistance is not practicable, because of the small amount of the VAT in every single case. We therefore require the introduction of a lump sum. Up to this sum it should be allowed to account the VAT compared to the customer of another EU-member state. Another possibility could also be the waiving of the necessary evidences for intra-Community service up to this sum."

Q 13: "Which, if any, provisions of EU VAT law should be laid down in a Council regulation instead of a directive?"

CECRA is of the opinion that a total harmonisation of VAT improving the creation of a single market should be laid down in a Council regulation, granting to the Commission the power to define the implementing rules by a decision.

A Council regulation would indeed achieve greater harmonisation.

The lack of harmonized interpretation of the VAT directive in the individual member states causes the conditions of proof of a cross-border transaction to be applied with a varying degree of strictness between the countries. This also applies to the directive on electronic accounting and invoicing, demonstrating that the EU VAT rules contain provisions which could better be included in a Council Regulation instead of a directive.

Since a Council Regulation directly becomes applicable law in the member states and does not require an implementation decision from them, different interpretations and implementations can be avoided. At the same time, the distortions of competition which arise from the different implementations of the VAT directive would be avoided. CECRA therefore advocates an intensified use of regulations.

Q 19: "Do you think that the current rates structure creates major obstacles for the smooth functioning of the single market?"

CECRA is in favour of a total harmonisation of VAT rates and asks for an active continuation of all the work in this field.

Q 20: "Would you prefer to have no reduced rates (or a very short list), which might enable Member States to apply a lower standard VAT rate?"

In CECRA's eyes the current structure of the VAT rates is characterized by a lack of transparency and clearly exaggerated costs of compliance, which are a consequence of the different rates. In

addition, the differences of VAT rates in the individual member states lead to distortions of competition at the EU level because of lower ex-works (manufacturer) net prices in member states with higher VAT rates.

Moreover, CECRA definitely supports any claim to a reduction of the number of VAT rates. Such proceeding naturally leads to greater uniformity of the tax regulations, instead of encouraging a lack of transparency.

CECRA is in favour of the elaboration of a list of VAT rates, which is mandatory and applied in a uniform way within the EU whether as regards the normal rate or as regards the reduced rates. This will result in more transparency and will take away distortion of competition and this for the benefit of a good functioning of the single market.

Q 21:“ What are the main problems you have experienced with the current rules on VAT obligations?”

Q 22:“ What should be done at EU level to overcome these problems”?

Our entrepreneurs experience difficulties with the current provisions regarding the obligations in the field of VAT, as far as the mandatory details on invoices and the general VAT report are concerned. The same applies to the obligations in the field of proofs to be furnished in connection with the conditions to be created for a cross-border transaction to be valid.

The verification of the mandatory details on invoices is increasingly time-consuming and also requires personnel resources from the enterprise. If the member states have differently implemented the mandatory invoicing details of the VAT directive, it will be sometimes extremely difficult and time-consuming to get correct invoices from the supplier. In addition, the recent stricter regulations regarding the general report mean working hours and extra costs.

CECRA therefore thinks that the following measures could contribute to solve the problems:

- Union-wide simplification and reduction of the details to be mandatorily indicated on invoices;
- Slimming down general reports;
- Uniform forms to strengthen the internal market;
- Union-wide harmonized obligations of proof to be furnished for a tax-free cross-border transaction (sale or service) to be valid.

Q 28:“ Do you think that the current VAT rules create difficulties for intra-company or intra-group cross-border transactions? How can these difficulties be solved”?

As far as large dealer groups have cross-border turnovers at business or group level two problems arise. The difficulty, on the one hand, can be that different material and procedural laws apply in the individual member states. On the other hand, there are different obligations of proof to be considered in the individual countries in the field of VAT. As both problems sometimes lead to considerable costs of compliance and therefore extra costs, substantive law and the different obligations of proof should be adjusted at the EU level.

Q 30:“ Which of these models looks most promising in your view and why, or would you suggest other alternatives”?

In order to simplify the supply of goods and services by enterprises throughout the EU, the application of law for enterprises should be harmonized. This can only be done, in our opinion, by union-wide harmonization of the VAT rules. In this regard, linking a union-wide harmonized VAT regime with the so-called principle of the country of origin should be considered.



CECRA, established in 1983, is THE European Federation consisting of 22 national professional associations representing the interests of the Motor Trade and Repair Businesses and 14 European Dealer Councils.

In figures CECRA represents all the more than 380,000 automotive enterprises in the EU, of which 120,000 are Authorized Dealers and Repairers and some 260,000 Independent Repairers. They employ 2.8 million people.