



**COUNCIL OF
THE EUROPEAN UNION**

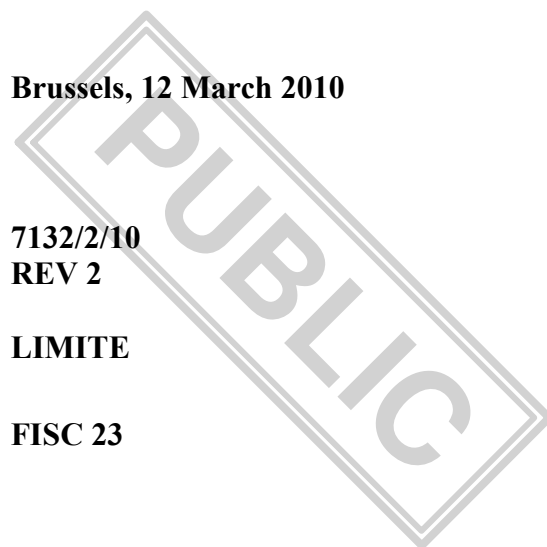
Brussels, 12 March 2010

**Interinstitutional File:
2009/0009 (CNS)**

**7132/2/10
REV 2**

LIMITE

FISC 23



NOTE

from: Presidency

to: Council

No. Cion prop.: 5985/09 FISC 13 - COM(2009) 21 final

Subject: Proposal for a Council Directive amending Directive 2006/112/EC on the common system of value added tax as regards the rules on invoicing
- General approach

1. On 3 January 2009, the Commission submitted to the Council a proposal amending the VAT Directive as regards the rules on invoicing.

The European Parliament has not yet delivered its opinion.

The Social and Economic Committee delivered its opinion on 10 June 2009.

2. The Working Party on Tax Questions and the Fiscal Attachés examined the abovementioned proposal at several meetings.

3. At the Coreper meeting on 11 March 2010 a large majority of Member States could accept the Presidency compromise as set out in doc. 7132/1/10 REV 1 FISC 23.

However, some Member States maintained reservations on certain elements of the compromise text.

In the light of Coreper's discussions, the Presidency submits to the Council a revised compromise proposal¹ as set out in Annex I (legal text) and Annex II (statement).

4. The Council is invited to agree:

- a general approach on the text of the Directive concerning the rules on invoicing as set out in Annex I;
- to enter the statement set out in Annex II in the Council minutes at which the Directive will be formally adopted.

¹ A number of recitals still need to be adapted to the text following the Council's agreement.

**Proposal for a
COUNCIL DIRECTIVE
amending Directive 2006/112/EC on the common system of value added tax
as regards the rules on invoicing**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 93 thereof,

Having regard to the proposal from the Commission²,

Having regard to the opinion of the European Parliament³,

Having regard to the opinion of the European Economic and Social Committee⁴,

Whereas:

- (1) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax⁵ lays down conditions and rules concerning value added tax, hereinafter "VAT", invoices to ensure the proper functioning of the internal market. In accordance with Article 237 of that Directive, the Commission has presented a report which identifies, in the light of technological developments, certain difficulties with regard to electronic invoicing and which, in addition, identifies certain other areas in which the VAT rules should be simplified with a view to improving the functioning of the internal market.

² OJ C , , p. .

³ OJ C , , p. .

⁴ OJ C , , p. .

⁵ OJ L 347, 11.12.2006, p. 1.

- (2) Since record keeping needs to be sufficient to allow Member States to control goods moving temporarily from one Member State to another, it should be made clear that record keeping is to include details of valuations on goods moving temporarily between Member States. Also, transfers of goods for valuation purposes to another Member State should not be regarded as a supply of goods for VAT purposes.
- (3) The rules concerning the chargeability of VAT on intra-Community supplies of goods should be simplified in order to ensure the uniformity of the information submitted in recapitulative statements and the timeliness of the exchange of information by means of those statements. The derogation in Article 67(2) of Directive 2006/112/EC allowing the invoice to create chargeability to tax should be removed; only the time of the supply should cause VAT to become chargeable. In addition, the continuous supply of goods from one Member State to another over a period of more than one calendar month should become chargeable at the end of each calendar month. The rules concerning the chargeability of VAT on intra-Community acquisitions should be similarly changed.
- (4) To help small and medium sized enterprises that encounter difficulties to pay the VAT to the competent authority before they have received payment from their customers, Member States should have the option of allowing VAT to be accounted using a cash accounting scheme which allows the supplier to pay VAT to the competent authority when he receives payment for a supply and which establishes his right of deduction when he pays for the supply. This should allow Member States to introduce an optional cash accounting scheme that does not have a negative effect on cash flow relating to their VAT receipts.

- (5) A valid invoice issued in accordance with Directive 2006/112/EC is an important document in the control of VAT, particularly with regard to the right of deduction. This is the case for all transactions irrespective of the person liable for payment of the tax. Rules should therefore be introduced to allow Member States the right to require a valid VAT invoice in all cases where there is a right of deduction.
- (6) To provide legal certainty for business regarding their invoicing obligations, the Member State in which the invoicing rules apply should be clearly stated. The applicable rules should be those of the Member State in which the taxable person making the supply is identified for VAT or is otherwise established.
- (7) To further help reduce burdens on business the use of simplified invoices should be extended to areas in which the tax risk is minimal, such as credit notes, low value supplies and certain exempt supplies.
- (8) Given Member States' divergent invoicing rules for supplies to non-taxable persons and the need to maintain measures to control fraud, the option of requiring taxable persons to invoice non-taxable persons should be maintained. However, in order to balance this against the need to reduce burdens on business, only a simplified invoice containing a minimum level of information should be required.
- (9) In order to harmonise the rules on invoicing to taxable persons or non-taxable legal persons, with a view to improving the functioning of the internal market, the relevant options available to Member States should be abolished or replaced by harmonised rules. This should be the case with regard to exempt supplies, the time limit for issuing an invoice, summary invoices, self-billing and outsourcing to third parties outside the Community.

- (10) The requirements concerning the information to be provided on invoices should be amended to allow better control of the tax, to create equality of treatment between cross-border and domestic supplies and to help promote e-invoicing.
- (11) Since the use of e-invoicing can help businesses to reduce costs and be more competitive, current VAT requirements on e-invoicing must be revised to remove existing burdens and barriers to uptake. Paper invoices and E-invoices should be treated equally and the administrative burden on paper invoicing should not increase. Equal treatment should also apply as regards the competences of tax authorities. Their control competences and the rights and obligations of taxable persons must apply equally whether a taxable person chooses to issue paper invoices or electronic ones.

Invoices must reflect actual supplies and their authenticity, integrity and legibility must be ensured. Business controls can be used to establish reliable audit trails linking invoices and supplies, thereby ensuring that any invoice (whether in paper or in electronic form) complies with those requirements.

The authenticity and integrity of e-invoices, can also be ensured by using certain existing technologies, such as EDI and advanced electronic signatures. Other technologies exist. However, [...] neither the Directive nor Member States should prescribe the use of any particular e-invoicing technology.

- (12) Since the divergent rules of the Member States regarding the period of time during which invoices must be stored, the medium in which they must be stored and their place of storage create significant burdens on business, a common storage period should be established and it should be possible to store invoices in electronic form and to store them outside the Member State in which the taxable person is established provided that those invoices can be made available without undue delay. It should also be provided that the rules which apply to the storage of invoices should be those of the Member State in which the taxable person is established.
- (13) The rules on the access to invoices by the competent authority for control purposes should be made clear so that when a taxable person stores on-line invoices which he has issued or received, the Member State in which the tax is due should have access to those invoices.
- (14) Since the objectives of the action to be taken regarding the simplification, modernisation and harmonisation of the VAT invoicing rules cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.
- (14a) In accordance with point 34 of the Interinstitutional Agreement on better law-making, Member States are encouraged to draw up, for themselves and in the interests of the Community, their own tables illustrating, as far as possible, the correlation between this Directive and the transposition measures, and to make them public.
- (15) Directive 2006/112/EC should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 2006/112/EC

Directive 2006/112/EC is amended as follows:

(1) In Article 17(2), point (f) is replaced by the following:

“(f) the supply of a service performed for the taxable person and consisting in valuations of, or work on, the goods in question physically carried out within the territory of the Member State in which dispatch or transport of the goods ends, provided that the goods, after being valued or worked upon, are returned to that taxable person in the Member State from which they were initially dispatched or transported; ”

(1a) In Article 63 the following subparagraph is added:

“Article 64(1), the third subparagraph of Article 64(2), Article 65 and Article 66 shall not apply where, in accordance with the conditions laid down in Article 138, goods dispatched or transported to a Member State other than that in which dispatch or transport of the goods begins are supplied VAT-exempt, or goods are transferred VAT-exempt to another Member State by a taxable person for the purposes of his business.”

(2) In Article 64, paragraph 2 is replaced by the following:

“2. Continuous supplies of goods over a period of more than one calendar month which are dispatched or transported to a Member State other than that in which the dispatch or transport of those goods begins and which are supplied VAT-exempt or which are transferred VAT-exempt to another Member State by a taxable person for the purposes of his business, in accordance with the conditions laid down in Article 138, shall be regarded as being completed on expiry of each calendar month until such time as the supply comes to an end.

Supplies of services for which VAT is payable by the customer pursuant to Article 196, which are supplied continuously over a period of more than one year and which do not give rise to statements of account or payments during that period, shall be regarded as being completed on expiry of each calendar year until such time as the supply of services comes to an end.

Member States may provide that, in certain cases other than those referred to in the first and second subparagraphs, the continuous supply of goods or services over a period of time is to be regarded as being completed at least at intervals of one year.”

(3) In Article 66, point (c) is replaced by the following:

“(c) where an invoice is not issued, or is issued late, within a specified time no later than upon expiry of the time limit specified by Member States in accordance with Article 222, second subparagraph. Where no such time limit has been specified by the Member State, within a specified period from the date of the chargeable event.”

(4) Article 67 is replaced by the following:

“By way of derogation from Article 63, where, in accordance with the conditions laid down in Article 138, goods dispatched or transported to a Member State other than that in which dispatch or transport of the goods begins are supplied VAT-exempt or where goods are transferred VAT-exempt to another Member State by a taxable person for the purposes of his business, VAT shall become chargeable on issue of the invoice, if that invoice is issued before expiration of the time limit referred to in Article 222, first paragraph, [...].

Where no invoice is issued, or the invoice is issued late, VAT shall become chargeable on expiration of the date referred to in Article 222, first paragraph.”

(5) [...]

(6) Article 69 is replaced by the following:

“[...]In the case of the intra-Community acquisition of goods, VAT shall become chargeable on issue of the invoice, if that invoice is issued before expiration of the time limit referred to in Article 222, first paragraph [...].

Where no invoice is issued, or the invoice is issued late, VAT shall become chargeable on expiration of the date referred to in Article 222, first paragraph.”

(7) In Article 91(2) the following subparagraph is inserted between the existing two:

“Member States shall accept the use instead of the latest exchange rate published by the European Central Bank at the time the tax becomes chargeable. Where the conversion is between two non-Euro currencies the conversion rate shall be via the Euro exchange rate of each currency. Member States may require that they be notified of the exercise of this option by the taxable person.”

(8) The following Article 167a is inserted:

“Article 167a

[...]

[...] Member States may provide within an optional scheme that a taxable person whose VAT solely becomes chargeable according to Article 66 (b) must postpone his right of deduction until the VAT has been paid to his supplier.

Member States which exercise such an optional scheme shall set a threshold for taxable persons using the scheme within their territory, based on the annual turnover of the taxable person calculated in accordance with Article 288, which cannot be higher than EUR 500 000 or the equivalent in national currency. However, Member States may increase that threshold up to EUR 2 000 000 or the equivalent in national currency if on 1 January 2013 they were applying a threshold which exceeds EUR 500 000 or after consulting the VAT Committee, may increase that threshold up to EUR 2 000 000 or the equivalent in national currency.

Member States shall inform the VAT Committee of national legislative measures adopted pursuant to the first subparagraph.”

(9) Article 178 is amended as follows:

(a) Point (a) is replaced by the following:

“(a) for the purposes of deductions pursuant to Article 168(a), in respect of the supply of goods or services, he must hold an invoice drawn up in accordance with Sections 3 to 6 of Chapter 3 of Title XI;”

(b) Point (c) is replaced by the following:

“(c) for the purposes of deductions pursuant to Article 168(c), in respect of the intra-Community acquisition of goods, he must set out in the VAT return provided for in Article 250 all the information needed for the amount of VAT due on his intra-Community acquisitions of goods to be calculated and he must hold an invoice drawn up in accordance with Sections 3, 4 and 5 of Chapter 3 of Title XI;”

(10) **Article 181 is replaced by the following:**

“Article 181

Member States may authorise a taxable person who does not hold an invoice drawn up in accordance with Sections 3, 4 and 5 of Chapter 3 of Title XI to make the deduction referred to in Article 168(c) in respect of his intra-Community acquisitions of goods.

(11) [...]

(12) In Article 197(1), point (c) is replaced by the following:

“(c) the invoice issued by the taxable person not established in the Member State of the person to whom the goods are supplied is drawn up in accordance with Sections 3, 4 and 5 of Chapter 3.”

(12a) In Section 1 of Chapter 3 of Title XI Article 217 is replaced by the following:

“For the purposes of this Directive, “electronic invoice” shall mean an invoice that contains the information required in this Directive, and which has been issued and received in any electronic format.”

(13) [...]

(14) In Section 3 of Chapter 3 of Title XI, the following Article 219a is inserted:

“Article 219a

Without prejudice to Articles 244-248 the following shall apply:

1. Invoicing shall be subject to the rules applying in the Member State in which the supply of goods or services is deemed to be made, in accordance with the provisions of Title V.
2. By way of derogation to paragraph 1, invoicing shall be subject to the rules applying in the Member State in which the supplier has established his business or has a fixed establishment from which the supply is made or, in the absence of such place of establishment or fixed establishment, the Member State where the supplier has his permanent address or usually resides, where:

- a) the supplier is established in a Member State other than that in which the supply of goods or services is deemed to be made, in accordance with the provisions of Title V, and the person liable for the payment of the VAT is the person to whom the goods or services are supplied.

However in such transactions where the customer issues the invoice (self billing) invoicing shall be subject to the rules provided on paragraph 1.

- b) the supplier is established in the Community and the supply of goods or services is not deemed to be made within the Community, in accordance with the provisions of Title V.”

(15) Article 220 is replaced by the following:

“1. Every taxable person shall ensure that, in respect of the following, an invoice is issued, either by himself or by his customer or, in his name and on his behalf, by a third party:

(1) supplies of goods or services which he has made to another taxable person or to a non-taxable legal person;

(2) supplies of goods as referred to in Article 33;

(3) supplies of goods carried out in accordance with the conditions specified in Article 138;

(4) any payment on account made to him before one of the supplies of goods referred to in points (1) and (2) was carried out;

(5) any payment on account made to him by another taxable person or non-taxable legal person before the provision of services was completed. ”

2. By way of derogation from paragraph 1, and without prejudice to Article 221(1) issuance of an invoice shall not be required in respect of exempt supplies of services pursuant to points (a) to (g) of Article 135(1).

(16) The following Article 220a is inserted:

“Article 220a

1. Member States shall allow the taxable person to issue a simplified invoice in any of the following cases:

- (a) where the amount of the invoice is EUR 100, or the equivalent in national currency, or less;
- (b) where the invoice issued is a document or message treated as an invoice pursuant to Article 219.

2. A simplified invoice shall not be permitted by Member States when invoices must be issued pursuant to points (2) and (3) of Article 220(1) or when the taxable supply of goods or services is carried out by a taxable person who is not established in the Member State in which the VAT is due and the person liable for the payment of VAT is the person to whom the goods or services are supplied.”

(17) Articles 221, 222, 223, 224 and 225 are replaced by the following:

“Article 221

1. Member States may impose on taxable persons an obligation to issue an invoice in accordance with the details required in Article 226 or Article 226b in respect of supplies of goods or services other than those referred to in Article 220(1).

Member States may impose on taxable persons established in their territory the obligation to issue an invoice in accordance with the details required in article 226 or article 226b in respect of supplies of services referred to in article 220(2) which they have made in their territory or outside the Community

2. Member States may release taxable persons from the obligation laid down in Article 220(1) or in Article 220a to issue an invoice in respect of supplies of goods or services which they have made in their territory and which are exempt, with or without deductibility of the VAT paid in the preceding stage, pursuant to Articles 110 and 111, Article 125(1), Article 127, Article 128(1), Article 132, **points (h) to (l) of article 135, articles 136, 371, 375, 376 and 377, Article 378(2), Article 379(2) and Articles 380 to 390b.**

Article 222

For supplies of goods carried out in accordance with the conditions specified in Article 138 or for supplies of services for which VAT is payable by the customer pursuant to Article 196, an invoice must be issued no later than on the 15th day of the month following that in which the chargeable event occurs.

For other supplies of goods or services Member States may impose time limits on taxable persons for the issue of invoices.

Article 223

Member States shall allow the taxable person to issue summary invoices which detail several separate supplies of goods or services provided that the supplies mentioned in a summary invoice become chargeable for VAT during the same calendar month.

Without prejudice to Article 222, Member States may allow summary invoices to include supplies which have become chargeable during a period of time longer than one calendar month.

Article 224

Invoices may be drawn up by the customer in respect of the supply to him, by a taxable person, of goods or services, if there is a prior agreement between the two parties and provided that a procedure exists for the acceptance of each invoice by the taxable person supplying the goods or services. Member State may require that such invoices be issued in the name and on behalf of the taxable person.

Article 225

Member States may impose specific conditions on taxable persons in cases where the third party, or the customer, who issues invoices is established in a country with which no legal instrument exists relating to mutual assistance similar in scope to that provided for in Directive 2008/55/EC, Regulation (EC) No 1798/2003 and Regulation (EC) No 1179/2008.”

(18) Article 226 is amended as follows:

(a) The following point (7a) is inserted:

“(7a) where the VAT becomes chargeable at the time when the payment is received according to article 66 (b) **and the right of deduction arises at the time the deductible tax becomes chargeable [...]**, the mention “cash accounting”.

(b) The following point (10a) is inserted:

“(10a) where the customer receiving a supply issues the invoice instead of the supplier, the mention “self-billing”.”

(c) Point (11) is replaced by the following:

“(11) In the case of an exemption, reference to the applicable provision of this Directive, or to the corresponding national provision, or any other reference indicating that the supply of goods or services is exempt;”

(d) The following point (11a) is inserted:

“(11a) where the customer is liable for the payment of the VAT, the mention “Reverse Charge”.”

(e) Point (13) is replaced by the following:

“(13) where the margin scheme for travel agents is applied, the mention “Margin scheme - Travel agents”.”

(f) Point (14) is replaced by the following:

“(14) where one of the special arrangements applicable to second-hand goods, works of art, collectors' items and antiques is applied, the mention “Margin scheme - Second-hand goods”; “Margin scheme - works of art” or “Margin scheme - collector’s items and antiques”, as corresponds.”

(19) The following Articles 226a and 226b are inserted:

“Article 226a

Where the invoice is issued by a taxable person, who is regarded as not established in the Member State where the tax is due, and who is making a supply of goods or services to a customer who is liable for payment of VAT, the taxable person may omit the details referred to in points (8), (9) and (10) of Article 226 and instead indicate, by reference to the quantity or extent of the goods or services supplied and their nature, the taxable amount of those goods or services.

Article 226b

1. Member States shall require at least the following details on simplified invoices issued pursuant to Articles 220a and 221(1):

- (a) the date of issue;
- (b) identification of the taxable person supplying the goods or services.
- (c) identification of the type of goods or services supplied;
- (d) the VAT amount payable or the information needed to calculate it;
- (e) if the invoice issued is a document or message treated as an invoice pursuant to Article 219, specific and unambiguous mention to that initial invoice and the specific details which are being amended.

2. Member States may not require more details other than those provided for in Articles 226, 227 and 230.”

(20) Article 228 is deleted.

(21) Article 230 is replaced by the following:

“Article 230

The amounts which appear on the invoice may be expressed in any currency, provided that the amount of VAT payable or to be adjusted is expressed in the national currency of the Member State, using the conversion rate mechanism provided for in Article 91.”

(22) Article 231 is deleted.

(23) In the title of Section 5 of Chapter 3 of Title XI, the words "Sending invoices by electronic means" are replaced by "Paper and electronic invoices".

(24) Article 232 and 233 are replaced by the following:

“Article 232

The use of an electronic invoice shall be subject to acceptance by the recipient.

Article 233

1. The authenticity of the origin, the integrity of the content and the legibility of an invoice, whether in paper or in electronic form, **shall** be ensured from the point in time of issue until the end of the period for storage of the invoice.

Each taxable person shall determine the way to ensure the authenticity of the origin, the integrity of the content and the legibility of the invoice. This can be achieved by any business controls which create a reliable audit trail between an invoice and a supply.

“The authenticity of the origin” shall mean the assurance of the identity of the supplier or the issuer of the invoice.

“The integrity of the content” shall mean that the content required according to this Directive has not been altered.

2. Other than through the type of business controls described in the second subparagraph of paragraph 1, the following are examples of technologies that ensure the authenticity of the origin and the integrity of the content of an electronic invoice:

-by means of an advanced electronic signature within the meaning of point (2) of Article 2 of Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures, based on a qualified certificate and created by a secure signature creation device, within the meaning of points (6) and (10) of Article 2 of Directive 1999/93/EC.

-by means of electronic data interchange (EDI), as defined in Article 2 of Commission Recommendation 1994/820/EC of 19 October 1994 relating to the legal aspects of electronic data interchange, if the agreement relating to the exchange provides for the use of procedures guaranteeing the authenticity of the origin and integrity of the data.”

(25) Article 234 is deleted.

(25bis) Article 235 is replaced by the following:

“Article 235

Member States may lay down specific conditions for electronic invoices issued in respect of goods or services supplied in their territory from a country with which no legal instrument exists relating to mutual assistance similar in scope to that provided for in Directive 2008/55/EC, Regulation (EC) No 1798/2003 and Regulation (EC) No 1179/2008.”

(26) Article 236 is replaced by the following:

“Article 236

Where batches containing several electronic invoices are sent or made available to the same recipient, the details common to the individual invoices may be mentioned only once if, for each invoice, all the information is accessible.”

(27) Article 237 is deleted.

(28) Article 238 is amended as follows:

(a) Paragraph 1 is replaced by the following:

“1. After consulting the VAT Committee, Member States may, in accordance with conditions which they may lay down, provide that in the following cases only the information required under Article 226b need be entered on invoices in respect of supplies of goods or services.

- (a) where the amount of the invoice is above EUR 100 but not higher than EUR 400, or the equivalent in national currency.
- (b) where commercial or administrative practice in the business sector concerned or the technical conditions under which the invoices are issued make it particularly difficult to comply with all the obligations referred to in Article 226 or Article 230.”

(b) Paragraph 2 is deleted.

(c) Paragraph 3 is replaced by the following:

“3. The simplified arrangements provided for in paragraph 1 shall not be applied when invoices must be issued pursuant to points (2) and (3) of Article 220(1) or when the taxable supply of goods or services is carried out by a taxable person who is not established in the Member State in which the VAT is due and the person liable for the payment of VAT is the person to whom the goods or services are supplied.”

(29) Articles 243 and 244 are replaced by the following:

“Article 243

1. Every taxable person shall keep a register of the goods dispatched or transported, by that person or on his behalf, to a destination outside the territory of the Member State of departure but within the Community for the purposes of transactions consisting in valuations of those goods or work on them or their temporary use as referred to in points (f), (g) and (h) of Article 17(2).

2. Every taxable person shall keep accounts in sufficient detail to enable the identification of goods dispatched to him from another Member State, by or on behalf of a taxable person identified for VAT purposes in that other Member State, and used for services consisting in valuations of those goods or work on those goods.

Article 244

Every taxable person required to ensure that an invoice is issued by himself or by his customer or, in his name and on his behalf, by a third party, shall ensure that copies of these invoices are stored.

Every taxable person receiving an invoice shall ensure that the invoice is stored.”

(32) Article 246 is deleted:

(33) Article 247 (2) is replaced by the following:

“Article 247

“2. In order to ensure that the conditions laid down in Article 233 are met, the Member State referred to in paragraph 1 may require that invoices be stored in the original form in which they were sent or made available, whether paper or electronic. Additionally, in the case of invoices stored by electronic means, the Member State may require that the data guaranteeing the authenticity of the origin of the invoices and the integrity of their content, as provided for in Article 233, also be stored by electronic means.”

(34) In Section 3 of Chapter 4 of Title XI, the following Article 248a is inserted:

“Article 248a

For control purposes, the Member States in which the tax is due may, for certain taxable persons or certain cases, require invoices to be translated into their official languages. Member States may however not impose a general requirement that invoices be translated”.

(35) Article 249 is replaced by the following:

“Article 249

For control purposes, where a taxable person stores, by electronic means guaranteeing on-line access to the data concerned, invoices which he issues or receives, the competent authorities of the Member State in which he is established and, when the VAT is due in another Member State, the competent authorities of that Member State, shall have the right to access, download and use those invoices.”

(36) In Article 272(1), the second subparagraph is replaced by the following:

“Member States may not release the taxable persons referred to in point (b) of the first subparagraph from the invoicing obligations laid down in Sections 3 to 6 of Chapter 3 and Section 3 of Chapter 4.”

Article 2

Transposition

1. Member States shall adopt and publish, by 31 December 2012 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from 1 January 2013.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

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

Article 3

Entry into Force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 4

Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the Council

The President

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**DRAFT STATEMENT TO BE ENTERED IN THE COUNCIL MINUTES
WHEN THE DIRECTIVE IS ADOPTED**

Article 167a

The Council and the Commission affirm that the previous statement to the Council's minutes with regard to Article 17(1) of the Sixth Directive (77/388/EEC) is not affected by the adoption of this Directive.

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