

WRITTEN QUESTION E-0455/02

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to the Commission

Subject: Taxation and the hydrocarbons market

The Spanish law 24/2001 of 27 December 2001 concerning fiscal, administrative and public-order measures (published in the 31 December 2001 edition of Spain's Official Journal) provides for, inter alia, the creation of a new tax on retail sales of certain hydrocarbons in Spain with effect from 1 January 2002.

The most significant of the provisions governing this new tax is the one pursuant to which all revenue derived from the tax is to be allocated to financing healthcare expenditure '(...) guided by means of objective criteria set at national level. However, the share of the resources derived from the taxes raised by [Spain's] autonomous communities may be used to finance environmental measures which must also be guided by the same criteria'. The tax rate applicable will be determined by adding together the rate set by the central government and that set by the autonomous community.

In Spain, a special tax on hydrocarbons is currently levied at a perfectly adequate rate and in accordance with fiscal policies designed to harmonise the level of such taxes in the European Union, with a view to preventing any trade distortions which might occur as a result of differing tax rates.

The purpose of special taxes is to even out private and public costs which differ on account of the consequences of using or consuming the commodities to which a given tax relates, to the extent that the existence of such a tax could be said to be justified on socio-economic grounds which favour the pursuit of socially desirable ends.

To the combination of the above-mentioned aspects, to the fact that the tax on hydrocarbons has much in common with VAT-based indirect taxation and to the ambiguity in the way in which the resources derived from the new tax are to be allocated may be added the unconventional legislative procedure used for the adoption of that tax.

1. In the light of the requirements and the objectives of Community fiscal harmonisation, does the Commission consider the Spanish Government to be entitled to create a new tax on a commodity which is already taxed and which is subject to harmonisation rules?
2. If the Spanish Government is so entitled, can it assign the resources derived from the new tax to a specific purpose or objective?
3. If a specific purpose or objective may be assigned, is it admissible for that purpose or objective to have nothing to do with the nature of the special taxes as defined above?
4. Should the answer to the first three questions be in the affirmative, is the Spanish Government entitled to introduce this new tax without (i) seeking authorisation from the Community authorities and/or (ii) notifying those authorities in connection with the progressive integration of policies designed to bring about tax-rate harmonisation?
5. If the answer to the fourth question is negative, what prior action should the Spanish Government have taken in order to satisfy the Community authorities? What action is the Commission going to ask the Spanish Government to take on this matter?
6. Should the answer to the fourth question be in the affirmative, to what extent and in what way

does the Commission believe that this state of affairs may affect Community trade or the policies designed to bring about progressive harmonisation?