

ORAL QUESTION H-0292/08

for Question Time at the part-session in May 2008
pursuant to Rule 109 of the Rules of Procedure
by Lambert van Nistelrooij
to the Council

Subject: Levying of VAT from separate businesses which either supply or distribute energy

In connection with the separation of network operators from suppliers of electricity and gas (EU Directives 2003/54/EC¹ and 2003/55/EC²), the question arises how Member States levy value added tax (VAT) on the operations of the separated network operators and suppliers. Some use the 'agent' model, which means that the supplier (the undertaking which transmits the energy) is required to collect VAT for the whole chain and pass it on to the tax authorities. Where this customary model is applied, the VAT payable by the supplier and his 'supplier' (the network operator) can be processed independently. However, if this model is not (or is no longer) permitted, the amounts of VAT which the supplier quotes on invoices to customers for the transmission service must correspond precisely to the amounts of VAT which the transmitting undertaking invoices for the particular customer. The supplier must explicitly quote on the invoice VAT on transmission as a separate item from the VAT on its own service. This mutual dependence of the supplier and transmitter is particularly troublesome to the businesses concerned in the event of a default on payment, change of address by the customer or switch to a new supplier.

Can the Council confirm that, following the separation of network operation and supply, the above 'agent' model is permitted on the basis of the EU law in force? In this context, does the Council foresee amendments to the proposals to the EP concerning the '3rd energy package' of 2007?

Tabled: 09.04.2008

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¹ OJ L 176, 15.7.2003, p. 37.

² OJ L 176, 15.7.2003, p. 57.