

Economic Agreement



Organ of Tributary coordination of Basque Country



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**A PACT FOR BASQUE
SELF-GOVERNMENT
AND ECONOMIC DEVELOPMENT**

The first complete renovation of the Economic Agreement between the Basque Country and Spain since its ratification in 1981 has called for the careful consideration. At least three aspects have been proven to be inherently important in terms of the agreement itself and the satisfaction of the Basque institutions: consideration of this instrument as a means of serving Basque self-government; reconfiguration of the Economic Agreement as central to economic policy; and the coming of age, in spite of all the stumbling blocks along the way, of a fundamental instrument in the application of the economic and monetary union, already at its height in the European Union with the introduction of the single currency, the euro.

The first aspect leads us to see the Economic Agreement between the Basque Country and Spain as one of the most genuine, essential, unique, or even exclusive examples, if you like, of the Basque Country's model of self-government.

Despite the fact that the Economic Agreement underwent five modifications in what might be regarded as the post-statutory phase, not until the current renovation had this instrument so decisively, firmly and even virulently contributed to characterizing the Basque system as a pacted, bilateral and shared self-government. Libraries bear witness to the fact that, regardless of unilateral actions and incidents, there is a need for a pact and shared responsibility between the Basque Country and Spain. Ultimately, the Economic Agreement, the spinal column of Basque self-government, serves to incarnate this pact.

It is important to remember that in addition to being instrumental in bilateral relations in the area of tax and finance, the Economic Agreement is the greatest

exponent of the recognition of the Basque people's historical rights, and key to bringing these rights into the twenty-first century. The very etymology of the word used to describe this type of pact, *concertado* (agreed or harmonised) clearly illustrates the spirit with which this instrument was conceived. It is not the outcome of a process of competency decentralization or of transferring state taxes; instead, its genesis lies precisely in a reverse process in which a set of powers remains in the hands of the Historical Territories after having ceded others to the State as a result of the abolition of the *fuero* system in place throughout the nineteenth century.

In other words, the pacted nature of the Economic Agreement is linked to a historical reality that predates the process of building a single country today known as Spain. Thus, it constitutes the most recent manifestation of the recognition of sovereignty, in this case in the scope of taxation and finance, equal to that of the State itself. The Basque Historical Territories are attributed as authentic and original political units to which in this stage of history are added the common institutions, government and parliament of the Basque Country.

Above and beyond this analysis, which may appear at first to be governed solely by history, the fact is that nowhere in the European Union today, not even in the federal states or those with a deeper-rooted decentralizing tradition, is there a case like that of the Autonomous Community of the Basque Country – or the Foral Community of Navarra – in which units other than the States themselves have the capacity to regulate their entire taxation system and virtually all of the taxes making up that system. Therefore, it is evident that the Economic Agreement is an instrument fundamental to Basque self-government in that it provides Basque institutions with wide powers for regulation and management in matters involving taxation and finance.

The second aspect for the reader to bear in mind is that he or she is looking at a reconfiguration of the Economic Agreement. It is now considered an even more decisive instrument in terms of Basque economic policy.

Up until and including the renovated text of the Economic Agreement, the Basque institutions have, in effect, had the power to enact tax legislation, configuring and developing integral, general, universal tax systems in accordance

with their attributed scope of competence and territory. Added to taxation regulation powers was administrative autonomy, given that the procedure of levying and administering taxes was also governed in all phases by the Basque institutions.

Looking at these powers from another angle, it is worth pointing out that the Economic Agreement has been designed as a unilateral risk taxation and finance system. This means that the State has no share in the taxes collected by Basque institutions, nor does it assume responsibility for covering public expenditure in the Basque Country. It does, however, assume responsibility for the competencies not transferred to the Basque public authorities. Inversely, it is the Basque institutions, through the so-called *Cupo*, or Quota, that contribute to sustaining the revenue paid to the General State Treasury. Therefore, rather than the State participating in Basque revenues or tax administration, the Basque Country contributes to the General State Treasury. As a result, any benefits or damages due to good or bad tax, financial or economic management in the Basque Country shall be the exclusive responsibility of its institutions.

The Economic Agreement has undergone a subtle metamorphosis over the past twenty years. Little by little, the modifications introduced in the agreement have generated greater powers for the Basque Country, while demonstrating its infinite capacity to adapt to the changing finance and tax circumstances of the State and the rest of Europe. As a result of this latest renovation, there has been an express recognition of not only taxation but also the financial nature of the Economic Agreement, since it incorporates the general principles of the financial relations between Spain and the Basque Country, the most outstanding of which is the principle of financial autonomy inherent in the pacted system itself. This explicit recognition is of the utmost importance. The Economic Agreement must work in the future to thwart problems of interpretation in the application of the limits of the agreement itself, and to situate the Basque Country and its institutions in a strong autonomous position. This way it will be able to face economic policies which increasingly demand greater concessions of financial and tax sovereignty to the European institutions and which up to now have been administered exclusively by the State. These policies do not exclude budgetary matters and stable spending discipline.

Along with the many new features inherent essential to the renewed Economic Agreement, I would like to underline the new agreement governing direct taxa-

tion of so-called “non-residents” – including citizens of European Union Member States – in all categories (Personal Income Tax, Corporate Tax, Wealth Tax, and Inheritance and Gift Tax). This will prevent future conflicts in or reinterpretations of the nature of the Economic Agreement with the ups and downs of the EU provisions or treaties, particularly with regard to freedom of establishment.

The comments above focusing on the new advances in tax and financial autonomy from the viewpoint of contents of the new Economic Agreement lead us inevitably to the third and final aspect. The integration of the instrument in the context of the Economic and Monetary Union, in full swing today in the heart of the EU.

In this sense, I feel it is relevant to recall a few points – whether fears or challenges – of a political rather than technical nature which were present in May 1997 at the time of the Economic Agreement’s previously amendment. This will help situate the reader of this text with regard to the third aspect.

Back then people talked about Europe getting ready for an event of great importance – the inception of the Economic and Monetary Union. This meant the economic integration of the different European Union countries and the arrival of a single currency for all Europeans. They said that in a context of economic optimism, though not completely free from uncertainties, the process would call for a great deal of good will and effort in order to gain a European identity. This meant looking forward to a future shared between all peoples and cultures of Europe since we have more things in common than we do differences. People talked about the strength of Europe being in its citizens, in its cities and its factories, in the way it carried out its business and production, in its culture of dialogue and solidarity, in its education, its competitiveness and its capacity to create a strong currency. They said that in this context the Economic Agreement, in spite of being a legal decision aimed at solving a conflict, and with the threat of becoming a legal fossil, could serve as a model to export to Europe. Should it be applied, it would leave the States with wide-ranging sovereignty, provide for co-ordination mechanisms, establish and direct financial flows and fix amount that each State would pay to Europe for services rendered.

Well then, what determination should be made of the Economic Agreement's evolution from 1997 to the current edition? In my opinion, now that the conflict-solving aspect of the Economic Agreement in a European context has been surmounted, and the euro is in circulation and going strong, we can say that the Economic Agreement as an instrument is securely implanted in the framework of EU regulations. These are the guidelines that shape the European market and the still incipient and delicate process of tax harmonization, which the Basque institutions should not, cannot, nor wish to be outside of. Our clear intention is to in fact take part in the process and the consensus that arises from the process. The conclusion is that the present Economic Agreement is an integral taxation and finance system generally accepted in Europe, much the same as the tax systems in any country or EU Member State.

The unsettled complaint with respect to the Basque Country's participation in Europe, that is Basque institutions having say in EU institutions, is one of the few issues that cast a pall over a bright future in the European Union, in spite of being a politically and legally valid and logical demand. Having a voice in Europe in terms of the Economic Agreement is not a political whim. It is a necessity, first of all because the Basque Country has enjoyed a Statute of Autonomy for over twenty years, since before Europe even existed for Spain; secondly, because this responsibility belongs to the Basque people by virtue of their very history, in the construction process to this day. Defence of the Economic Agreement is fundamental in all institutions, instances or forums where decisions are made which directly affect the Economic Agreement or its development.

I do not want to end this presentation without highlighting another basic feature of our Economic Agreement – the fact that it serves as an instrument for economic progress, and to improve the quality of life and well-being of the Basque society as a whole.

Indeed, it would be difficult to comprehend the development and progress experienced by the Basque society in the past two decades in terms of economic growth and social cohesion without the help of an instrument like the Economic Agreement. Moreover, I would like to add with pride and satisfaction that the excellent management on the part of the Basque institutions since the recovery of the Economic Agreement has been and continues to be one of the factors that has played an important role in the resurgence of the Basque economy in recent years. Of this, I am absolutely convinced.

Therefore, the current tax legislation is in tune with the Basque reality in Europe and alert to the needs and demands of the Basque society, a society that has its own social and productive structure – essentially industrial and mostly made up of small and medium enterprise. The Economic Agreement has been one of the driving forces behind the Basque Country surpassing the European Union average in terms of income.

In the same light, the sense of solidarity felt by the Basque society and the public institutions has made the system of the Economic Agreement an element for redistribution of tax revenues. The result is that in the Basque Country today we have truly model social policies in the areas of public health, education and social services, in addition to policies which promoting integration and cover basic social needs. All of this has contributed to the notable improvement in the quality of life and well-being of the Basque citizenry.

November 2002

Juan José Ibarretxe Markuartu
President of the Basque Country

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ECONOMIC AGREEMENT

CHAPTER I. TAXES

SECTION 1 GENERAL REGULATIONS

Article 1. Competences of the Institutions of the Historical Territories

One. The competent Institutions of the Historical Territories may maintain, establish and regulate, within their territory, the taxation system.

Two. The levying, administration, settlement, inspection, revision and collection of the taxes and duties comprising the taxation system of the Historical Territories shall be the responsibility of the respective Territorial Governments.

Article 2. General principles

One. The taxation system established by the Historical Territories shall be in accordance with the following principles:

First.—Respect for the principle of solidarity in the terms laid down in the Constitution and in the Statute of Autonomy.

Second.—Regard for the general taxation structure of the State.

Third.—Coordination, fiscal harmonisation and cooperation with the State, in accordance with the rules laid down in the present Economic Agreement.

Fourth.—Coordination, fiscal harmonisation and mutual cooperation between the Institutions of the Historical Territories pursuant to the regulations enacted by the Basque Parliament for these purposes.

Fifth.—Submission to the International Agreements or Treaties signed and ratified or adhered to by the Spanish State.

In particular, it shall comply with the provisions laid down in the International Agreements signed by Spain to avoid double taxation, as well as fiscal harmonisation measures of the European Union, and shall be responsible for making the refunds called for, pursuant to application of said Agreements and rules.

Two. The rules laid down herein shall be interpreted in accordance with the provisions contained in the General Tax Law for the interpretation of tax regulations.

Article 3. Fiscal harmonisation

In drafting their tax legislation, the Historical Territories shall:

- a) Respect the General Tax Law in matters of terminology and concepts, without prejudice to the exceptions established in the present Economic Agreement.
- b) Maintain an overall effective fiscal pressure equivalent to that in force in the rest of the State.
- c) Respect and guarantee freedom of circulation and establishment of persons and the free movement of goods, capital and services throughout the territory of Spain, without giving rise to discrimination or a lessening of the possibilities of commercial competition or to distortion in the allocation of resources.

- d) Use the same system for classifying industrial, commercial, service, professional, agricultural, livestock and fishing activities as is used in the so-called common territory, without prejudice to further itemisations that might be made.

Article 4. Cooperation principles

One. The competent Institutions of the Historical Territories shall inform the State Administration with due notice prior to their coming into effect, of any draft bills on tax regulations.

Similarly, the State Administration shall likewise inform the aforementioned Institutions.

Two. The State shall devise mechanisms for allowing the Institutions of the Basque Country to collaborate in any International Agreements affecting the application of the present Economic Agreement.

Three. The State and the Historical Territories, in the exercise of functions within their powers regarding the administration, inspection and collection of taxes, shall exchange any information and records deemed necessary for levying them more efficiently.

In particular, both Administrations shall:

- a) Provide each other, through their data processing centres, with any information they may require. To this end, the necessary technical connections between them shall be set up. A jointly coordinated fiscal information system plan shall be drawn up on a yearly basis.
- b) The inspection services shall draw up joint inspection plans concerning objectives, sectors and coordinated selective procedures, and concerning taxable persons who have changed their address, entities declaring under the tax transparency system and organisations subject to taxation proportionate to turnover for Corporation Tax purposes.

Article 5. Competences exclusive to the State

The following competences shall be considered exclusive to the State:

First.—The regulation, administration, inspection, revision and collection of the import duties and import levies included under Excise Duties and Value Added Tax.

Second.—Official inspection of the application of the present Economic Agreement, for which purpose the State agencies responsible for said inspection shall issue, with the collaboration of the Basque Government and the Territorial Governments, an annual report on the results of said application.

SECTION 2 PERSONAL INCOME TAX

Article 6. Applicable legislation and levying of the tax

One. The Personal Income Tax is agreed to be a tax subject to autonomous legislation by the Basque authorities. It shall be levied by the Territorial Government deemed competent by virtue of the Historical Territory when the taxpayer has habitual residence in the Basque Country.

Two. In the event that taxable persons integrated in a family unit have their habitual residence in different territories and choose to file a joint return, the competent tax authority shall be the Administration of the territory wherein lies the habitual residence of the family member having the largest tax base calculated according to the respective regulations.

Article 7. Income tax withholdings and payments on account

One. Withholdings and payments on account associated with earned income shall be exacted, according to the respective regulations, by the competent Territorial Government in each Historical Territory when linked to the following types of income:

a) Income from work or services performed in the Basque Country.

In the event that the work or services are performed in both the common territory and the Basque territory, the services shall be understood, unless proven otherwise, to be performed in the Basque Country when the place of work to which the worker is affiliated is located in the territory.

b) Income from pensions, passive income and loans received from Social Security and Pensioners, National Employment Institute, Assistance Funds, Mutual Benefit Societies, Employment Promotion Funds, Pension Plans, Voluntary Social Prevision Entities and passive benefits from companies and other entities when the benefactor resides habitually in the Basque Country.

c) Remunerations of any kind received by company chairpersons and members of boards of directors and or any other type of representative body, when the fiscal domicile of the paying entity is located in the Basque Country.

In event of entities liable to payment of the Corporation Tax levied by the State and by the Territorial Governments, the withholdings shall correspond to both Administrations according to the relative turnover generated in each territory. For this purpose, the proportion determined shall be in accordance with the last tax return for Corporation Tax. The withholdings shall be exacted, pursuant to Territorial or common territory legislation, depending on whether the paying entity is governed by Territorial or common territory legislation on Corporation Tax. Inspection thereof shall be performed by the competent bodies of the corresponding Administration, applying the same criteria. The above notwithstanding, the rules regarding place, form and deadline for presenting the tax returns shall be determined by the competent Administration for levying the tax.

Two. The preceding paragraph notwithstanding, the State Administration shall exact withholdings on active or passive remunerations, including pensions generated by a person other than the payee, paid by the State to civil servants and employees of the State.

Exception to the preceding paragraph shall be made for civil servants and employees of Autonomous Bodies and public business enterprises.

Article 8. Payments on account on income earned from professional activities

One. Withholdings and payments on account associated with income from professional activities shall be exacted, according to the respective regulations, by the competent Territorial Government in each Historical Territory when the habitual residence or fiscal domicile of the taxpayer responsible for withholding or paying on account is in the Basque Country. In any event, the withholdings or payments on account shall be exacted by the Administration of the State or by the competent Territorial Governments when they correspond to remunerations paid by them.

In exacting the withholdings and payments referred to in this article, the Governments of the Historical Territories shall apply rates identical to those of the common territory.

Two. Payments in instalments of Personal Income Tax shall be exacted, according to the respective regulations, by the competent Territorial Government in each Historical Territory when the habitual residence or fiscal domicile of the taxpayer is in the Basque Country.

Article 9. Withholdings and payments on account of the tax on income from capital

One. Withholdings and payments on account associated with income earned from capital shall be exacted, according to the respective regulations, by the competent Territorial Government in each Historical Territory in accordance with the following rules:

First.—The competent Territorial Government in each Historical Territory shall exact the withholdings corresponding to:

- a) Income earned from equity holdings in any entity, and from interest and other revenues earned from similar bonds and securities, when such earnings are paid by entities filing tax returns for Corporation Tax exclusively in Basque territory.

In the event of entities that are liable to payment of the Corporation Tax levied by the State and by the Territorial Governments of the Historical Territories, the withholding shall correspond to both Administrations according to the volume of operations performed in each territory. For this purpose, the proportion determined shall be in accordance with the last tax return for Corporation Tax. The withholdings shall be exacted, pursuant to Territorial or common territory legislation, depending on whether the paying entity is governed by Territorial or common territory legislation on Corporation Tax. Inspection thereof shall be performed by the competent bodies of the corresponding Administration, applying the same criteria. The above notwithstanding, the rules regarding place, form and deadline for presenting the tax returns shall be determined by the competent Administration for levying the tax.

- b) Interest and other revenues on bonds and debentures issued by the Autonomous Community, the Territorial Governments of the Historical Territories, Town Councils and other bodies of the territorial and institutional Administration of the Basque Country, wherever they are paid. Those corresponding to issues by the State, other Autonomous Communities, Town Councils in the common territory and other bodies of their territorial and institutional Administrations, even when paid in Basque territory, shall be exacted by the State.
- c) Interest and other revenues from deposit transactions at Banks, Savings Banks, Cooperative Credit Banks and similar entities, as well as at any other credit or financial institutions, when the beneficiary thereof has his or her habitual residence or fiscal domicile in the Basque Country.
- d) Income derived from capitalisation and life or disability insurance transactions when the beneficiary thereof, or the policy holder in the case of redemption, has his or her habitual residence or fiscal domicile in the Basque Country.
- e) Life annuities and other rents which are the result of the investment of capital, when the beneficiary thereof has his or her habitual residence or fiscal domicile in the Basque Country.

In the case of withholdings on pensions generated by a person other than the payee and paid by the Administration of the State, such withholdings shall be exacted by the Administration of the State.

- f) Income from intellectual property when the taxable person is not the author and, in all cases, from industrial property and from rendering technical assistance when the person or entity paying same has its fiscal domicile in the Basque Country.
- g) Income from the rental of goods, rights, businesses or mines and similar, when they are located in Basque territory.

Second.—In the case of interest on loans secured with real estate mortgages, the Administration of the territory where the mortgaged assets are located shall be competent to exact the withholding.

When the mortgaged assets are located in both the common territory and the Basque territory, both Administrations shall exact the withholding, to which end the interest shall be apportioned proportionally to the value of the mortgaged assets, except in the event of special assignment of the guarantee, in which case this figure shall be used as the basis for apportionment.

Third.—In the case of interest on loans secured with real estate mortgages, the Administration of the territory where the mortgaged assets are located shall be competent to exact the withholding.

Fourth.—In the case of interest on simple loans, deferral of purchase-sale price and other income from the placement of capital, the withholding shall be exacted by the Administration of the territory wherein lies the establishment or habitual residence or fiscal domicile of the entity or person obliged to make the withholding.

Two. In exacting the withholdings and payments referred to in this article, the Governments of the Historical Territories shall apply rates identical to those of the common territory.

Article 10. Withholdings and payments on account of the tax on income from specific capital gains

One. Withholdings associated with capital gains from the transfer or payment of shares and holdings in Collective Investment Institutions shall be exacted, according to the respective regulations, by the Administration of the State or the competent Territorial Government in each Historical Territory, depending on whether the share or stakeholder has his or her habitual residence or fiscal domicile in the Basque Country.

Two. Withholdings and payments on account corresponding to prizes awarded as a result of participation in games, contests, raffles or random combinations, whether linked or not to the offer, promotion or sale of certain goods, products or services, shall be exacted by the Administration of the State or by the competent Territorial Government in each Historical Territory, according to whether the payer of same is domiciled in the common or Basque territory. In any event, the withholdings or payments on account shall be exacted by the Administration of the State or by the competent Territorial Governments when they correspond to remunerations for prizes.

In exacting the withholdings and payments referred to in this article, the Governments of the Historical Territories shall apply rates identical to those of the common territory.

Article 11. Other payments on account

One. Withholdings and payments on account associated with income from the leasing and subleasing of property shall be exacted, according to the respective regulations, by the competent Territorial Government in each Historical Territory when the habitual residence or fiscal domicile of the taxpayer responsible for withholding or paying on account is in the Basque Country.

Two. Withholdings and payments on account for amounts paid to entities, which, by virtue of the income tax system, should be attributed to payers of Personal Income Tax shall be exacted, according to the respective regulations, by the competent Territorial Government in each Historical Territory when the habitual residence or fiscal domicile of the taxpayer responsible for withholding or paying on account is in the Basque Country.

Article 12. Effectiveness of payments on account

For the purposes of payment of Personal Income Tax, payments on account made in either territory on behalf of the taxable person shall be valid, without this implying, should said payments on account have been paid into a non-competent Administration, the waiver by the other party of its right to demand from the Administration the amount to which it is entitled.

Article 13. Taxation by imputation and attribution of income

One. Entities filing returns under the imputation system must abide by the rules laid down in Section 4 of this Chapter. The tax liability attributed to the entity's partners shall be computed taking into account the rules concerning the Personal Income Tax or the Corporation Tax referred to herein, depending on the type of tax for which they are liable.

Two. In cases of attribution of income, the administration and inspection of the taxable entities filing under this system shall fall to the Administration of the territory where the fiscal domicile is located.

The tax liability attributed to the entity's partners shall be computed taking into account the rules concerning the Personal Income Tax, the Non-resident Income Tax or the Corporation Tax referred to in the Economic Agreement, depending on the type of tax for which they are liable.

SECTION 3 CORPORATION TAX

Article 14. Applicable legislation

One. The Corporation Tax is agreed to be a tax subject to autonomous legislation by the Basque authorities for taxable persons with fiscal domicile in the Basque Country.

However, taxable persons whose total business turnover in the previous year exceeded six million euros, and who performed 75 per cent or more of their total operations in the common territory, shall be subject to the legislation of that territory.

Also subject to autonomous legislation are taxable persons with fiscal domicile in the common territory whose total business turnover in the previous year exceeded six million euros and whose entire operations were performed in the Basque Country.

Two. For the purposes of this rule, total turnover shall be understood as the total consideration, net of Value Added Tax and the equivalency surcharge, where applicable, obtained for supplies of goods and of services performed in the course of the taxable person's business or professional activity.

The operations defined as such in the legislation on Added Value Tax shall have the consideration of supplies of goods and of services.

Should the first year of the activity fail to coincide with the calendar year, a full year's turnover shall be calculated for computing the aforesaid figure.

Three. For the purposes of the provisions contained in the preceding article, a taxable person shall be deemed to operate in one territory or the other when, pursuant to the criteria laid down in Article 16, said taxable person performs the supply of goods or services therein.

Four. In cases where the activity is being started, the turnover shall be computed on the basis of business volume registered during the first year. Should the first year of the activity fail to coincide with the calendar year, a full year's turnover shall be calculated for computing the aforesaid figure. Until the volume and place of realisation of the transactions in the year are known, those estimated by the taxable person based on its turnover forecasts for the start-up year shall be taken as such to all effects.

Article 15. Levying of the tax

One. The Territorial Governments of the Basque Country shall be responsible for levying the Corporation Tax on persons with fiscal domicile in the Basque Coun-

try whose business turnover in the previous year did not exceed six million euros.

Two. Those taxable persons whose business turnover in the previous year exceeded six million euros, regardless of where they have their fiscal domicile, shall file a return to the Territorial Government, the Administration of the State or jointly to both Administrations according to the turnover generated in each territory during the year.

The proportion of business turnover performed in each territory in the year shall be in accordance with rules laid down in the articles herebelow, and shall be expressed as a percentage rounded to the nearest one hundredth of one per cent.

Article 16. Determination of place of transactions

The following transactions shall be understood to be performed in the Basque Country:

A) Supplies of goods:

- First. Supplies of movable tangible property when delivery to the purchaser is performed in Basque territory. When the goods must be shipped in order to be delivered to the purchaser, the supplies shall be understood to have been performed in the place where the goods were located at the moment of initiating the dispatch or shipment. This rule shall have the following exceptions:
- a) In the case of goods processed by the supplier, the supply shall be understood to be made in Basque territory if the final processing of the goods in question was performed in that territory.
 - b) In the case of supplies involving the installation of industrial facilities outside the Basque Country, said supplies shall be deemed performed in Basque territory if the preparation and manufacturing work is done in said territory and the cost of the installation or assembly does not account for over 15 per cent of the total remuneration.

Conversely, supplies involving the installation of industrial facilities in the Basque Country shall not be deemed performed in Basque territory if the preparation and manufacturing work is done in the common territory and the cost of the installation or assembly does not exceed 15 per cent of the total remuneration.

Second. Supplies made by electric power producers when the power generation plants are located in Basque territory.

Third. The handing-over of real property, when the properties are located in Basque territory.

B) Supplies of services:

First. Supplies of services shall be deemed performed in Basque territory when they are effected from that territory.

Second. Exceptions to the preceding paragraph are services directly related to real property, which shall be considered performed in the Basque Country when said assets lie in Basque territory.

Third. Moreover, excepted from the provisions contained in the preceding paragraphs are insurance and capitalisation transactions, regarding which the rules laid down in Article 32 of the present Economic Agreement shall apply.

C) The provisions contained in letters A) and B) hereabove notwithstanding, the transactions specified below shall be considered performed in the Basque Country when the taxable person performing them has his or her fiscal domicile in Basque territory:

First. made by agricultural, forestry, livestock or fishing operations, and fishing boat owners, each harvesting directly from its own fields, forests or nets, of unprocessed natural products.

Second. Transport services, including removals, towing and crane operations.

Third. Lease or rental of means of transport.

- D) The transactions which in accordance with the criteria laid down in this article are considered performed abroad shall be attributed to one or the other Administration, as the case may be, in the same proportion as the other operations.
- E) Entities not performing the transactions set forth in article 14, number Two, second paragraph, shall file their returns with the Territorial Governments of the Historical Territories of the Basque Country when they have their fiscal domicile in Basque territory.

Article 17. Payments on account of tax

One. Withholdings and payment on account of the Corporation Tax shall correspond to one or the other Administration according to criteria laid down in the present Economic Agreement for Personal Income Tax. The provisions laid down in article 12 on the efficiency of payments on account made in one of the other Administration shall apply.

Two. Taxable persons who must shall file a return jointly to both Administration shall make the instalment payment of the tax according to the turnover according to the turnover generated in each territory. For this purpose, the proportion determined shall be in accordance with the last tax return for the Tax.

The preceding paragraph notwithstanding, upon prior notice to the Coordination and Evaluation Committee pursuant to Chapter III, Section 2 of the present Economic Agreement, a different proportion may be applied in the following cases:

- a) Mergers, divisions and exchange of securities.
- b) Start-up, termination, increase or reduction of activity in common or Basque territory entailing a significant variation in the proportion calculated according to the criterion specified in the first paragraph of number Two hereabove.

In all cases, the variation shall be considered significant when it entails a difference of 15 or more percentage points in the proportion applicable to any of the territories.

Three. Payments by instalment effectively paid to each Administration shall be reduced by the part of the tax owed thereto.

Article 18. Administration of the Tax in cases of returns filed with both Administrations

In cases of returns filed to both Administrations, the following rules shall apply:

First.—The result of the tax assessments shall be payable to the Administrations of the State and of the Basque Country according to the relative volume of operations performed in each territory during each tax period.

Second.—Persons who must file returns with both Administrations shall present, within the deadlines and in due form, all the documents stating the applicable proportions and the tax owed to, or to be refunded by, each of the Administrations.

Third.—Applicable refunds shall be made by the respective Administrations in the proportion that pertains to each of them.

Article 19. Inspection of the tax

One. Inspection shall be performed by the Territorial Government competent by virtue of the Historical Territory when the taxable person has his or her fiscal domicile in the Basque Country.

However, inspection of taxable persons whose total business turnover in the previous year exceeded six million euros, and who performed 75 per cent or more of their total operations in the common territory, shall be performed by the Administration of the State.

Moreover, inspection of taxable persons with fiscal domicile in the common territory whose total business turnover in the previous year exceeded six million euros and whose entire operations were performed in the Basque Country shall be performed by the Territorial Government competent by virtue of the Historical Territory.

Two. Tax inspections shall be performed pursuant to the legislation of the competent Administration, in accordance with the rules contained in the preceding paragraph, without prejudice to the collaboration of the rest of the Administrations.

Should the inspectors find that there is a tax liability due or an amount to be refunded corresponding to both Administrations, the collection or payment in question shall be made by the inspecting Administration, without prejudice to any compensations from each other to which the parties may be entitled. The inspection agencies of the competent Administrations shall communicate the results of their actions to the rest of the Administrations affected.

Three. The conditions laid down in the preceding rules are without prejudice to the faculties corresponding to the Territorial Governments of the Historical Territories within the scope of their territories in matters of verification and investigation, although their actions cannot have economic effects on taxpayers' final returns filed as a result of actions of the agencies of the competent Administrations.

Four. The proportions set in verifications by the competent Administration shall affect the subject's paid-in taxes, without prejudice to those taxes which, following said verifications, are definitively agreed between both Administrations.

Article 20. Economic interest groupings, joint ventures and corporate groups

One. The tax system governing economic interest groupings, joint ventures and corporate groups shall correspond to the Basque Country when all of the entities which comprise the groups are subject to Basque legislation.

These entities shall attribute to their partners their share of turnover from the operations performed in each territory, which they shall take into account in determining the proportion of operations.

Two (A) Corporate groups shall be subject to the so-called Basque tax consolidation system when the parent company and all of the subsidiary companies must file independent tax returns under Basque legislation, and shall be subject to the tax consolidation system of the common territory when the parent company and all of the subsidiary companies must file independent tax returns under the tax system of the common territory. For these purposes, companies subject to the other legislation shall be considered excluded from the corporate group.

In any event, identical rules shall apply to those established at any given time by the State for defining corporate groups, parent companies, subsidiary companies, degrees of control and internal transactions of the group.

(B) To adopt the tax consolidation system for corporate groups, the following rules shall apply:

First.—The companies comprising the group shall, in accordance with the general rules referred to herein, file the return established under the rules for filing independent tax returns.

Without prejudice to the preceding paragraph, the dominant company shall submit to each of the Administrations the consolidated accounts of the corporate group.

Second.—The corporate group shall file returns with the State or Basque Administrations according to the volume of operations performed in each territory.

For these purposes, the relative volume of operations performed in each territory shall consist of the sum or aggregation of the operations, that each of the companies in the group effects therein, before any applicable inter-group elimination.

SECTION 4
TAX ON INCOME OF NON-RESIDENTS

Article 21. Applicable legislation

One. The Tax on Income of Non-residents is agreed to be a tax subject to the same rules in terms of substance and form as those established at any given time by the State.

The above paragraph notwithstanding, the permanent establishments domiciled in the Basque Country of entities or persons resident abroad shall abide by Basque legislation on this Tax in accordance with the provisions contained in article 14.

When the taxpayer exercises the option to file a return for Personal Income Tax having complied with the requirements laid down in the rules governing Personal Income Tax, for the purposes of application of the optional system, the rules of the Territorial Government competent by virtue of the Historical Territory shall be considered provided a majority of the total income obtained in Spain comes from benefits of the work and economic activities obtained in Basque territory. If the taxpayer is entitled to a refund, it shall be paid by said Territorial Government regardless of where the income was obtained within Spanish territory.

Two. An individual taxpayer or entity shall be understood to operate by means of permanent establishment when by whatever title it makes continuous or habitual use of facilities or places of work of whatever kind, where all or part of its activity is conducted, or where it acts by means of an agent authorised to enter into contracts, on behalf of the non-resident taxpayer, and who habitually exercises such powers.

Particularly understood to be permanent establishments are management headquarters, branches, offices, factories, workshops, warehouses, shops or other establishments, mines, oil or gas wells, quarries, agricultural, forestry or fishing operations, or any other place of prospection or extraction of natural resources, and any construction, installation or assembly works of more than twelve months' duration.

Article 22. Levying of the tax

One. In the case of income obtained through a permanent establishment, the Tax shall be levied by either Administration or by both jointly, pursuant to the provisions contained in article 15 hereabove.

Two. In the case of income obtained without the involvement of a permanent establishment, the tax shall be levied by the competent Territorial Government in each Historical Territory when income is understood to have been obtained or produced in the Basque Country according to the following criteria:

- a) The income from economic transactions when produced in Basque territory.
- b) The earnings arising from the provision of services, such as studies, designs or projects, technical assistance, management support services and professional services, when the service is performed or used in Basque territory. Services shall be understood to be used in Basque territory when they serve business or professional activities conducted in Basque territory or are concerned with goods located therein.

When the place of use and the place of rendering of the service are not the same, the former shall be taken for tax purposes.

- c) Income arising, directly or indirectly, from salaries and wages when the work is performed in Basque territory.
- d) Income arising, directly or indirectly, from the personal performance, in Basque territory, of artists, actors or athletes, or from any other activity related to the aforesaid performances, even when attributed to a person or entity other than the artist, actor or athlete.
- e) Dividends and other earnings from equity holdings in Basque public entities, as well as the yield from equity holdings in private entities, in the amount envisaged in Section three of this article.
- f) Interest, royalties and other earnings on investments:

- paid by individuals with habitual residence in the Basque Country or Basque public entities, or paid by private entities or permanent establishments in the amount envisaged in Section three of this article;
- when generated in return for investments of capital used in Basque territory.

When these criteria fail to coincide, the place of utilisation of the capital whose service is remunerated shall apply for tax purposes.

- g) Income earned, directly or indirectly, from real property located in Basque territory or from rights on such real property.
- h) Income attributed to individual taxpayers from urban real property located in Basque territory.
- i) Capital gains arising from securities issued by Basque public entities or persons, as well as from securities issued by private entities, in the amount envisaged in Section four of this article.
- j) Capital gains arising from real property located in Basque territory or from rights on such real property. In particular, the following are considered included in this letter:
 - capital gains arising from rights or shares in a resident or non-resident entity whose assets are principally made up of real property located in Basque territory;
 - capital gains arising from the transfer of rights or shares in a resident or non-resident entity attributing to their holder the right of enjoyment of real property located in Basque territory.
- k) Capital gains arising from other assets located in Basque territory or rights that must be met or are exercised in said territory.

Three. When, pursuant to the criteria set out in the previous section, income can be understood to be earned in both territories, the taxation thereof shall correspond to the Historical Territory when the taxable person, in the event of an individual, has his or her habitual domicile in the Basque Country; if the taxable person is a corporate body or permanent establishment, the rules laid down in section three of this article shall apply.

Four. In the cases referred to in letters e), f) and i) of section 2 hereabove, and in the case envisaged in paragraph three, the income paid by private entities or permanent establishments shall be understood to be obtained or produced in Basque territory in the following amount:

- a) In the event of entities or permanent establishments that file tax declarations solely in the Basque Country, the total amount of the income paid.
- b) In the event of entities or permanent establishment that file declarations jointly to both Administrations, the portion of the income paid in proportion to the volume of transactions performed in the Basque Country.

However, in the cases referred to in this letter the competent Administration for taxing the total amount of the earnings shall be the Administration of the territory wherein lies the habitual residence or fiscal domicile of the persons, entities or permanent establishments that file a return on behalf of the non-resident, without prejudice to the compensation to be made to the other Administration for the portion corresponding to the relative volume of operations performed in the territory of the latter.

Moreover, any refunds payable to non-residents shall be paid by the Administration of the territory wherein lies the habitual residence or fiscal domicile of the persons, entities or permanent establishments that file a return on behalf of the non-resident, without prejudice to the compensation to be made to the other Administration for the portion corresponding to the relative volume of operations of the paying entity performed in the territory of the latter.

Five. The Special Charge on Property belonging to non-resident entities shall be levied by the Territorial Government deemed competent by virtue of the Historical Territory when the property is located in the Basque Country.

Article 23. Payments on account

One. Payments in instalments made by permanent establishments, and tax withholdings and payments on account for income received shall be exacted in accordance with the rules laid down in Sections 2 and 3 hereabove.

Two. Withholdings and payments on account associated with income from taxpayers operating without a permanent establishment shall be exacted by the Administration of the territory in which the income is understood to have been obtained, pursuant to the provisions contained in the preceding article. Additionally, inspection shall be performed by the agencies of the competent Administrations under the same article.

The previous paragraph notwithstanding, in the cases referred to in number Two, letters e), f) and i) of the preceding article, and in the case envisaged in paragraph three, said payments on account shall be exacted by the Territorial Governments according to the relative turnover performed by the taxpayer in the Basque Country, applying the rules laid down in Section 3 hereabove.

Three. The provisions laid down in article 12 on the efficiency of payments on account made in one of the other Administration shall apply.

SECTION 5 WEALTH TAX

Article 24. Applicable legislation and levying of the tax

The Wealth Tax is agreed to be a tax subject to autonomous legislation by the Basque authorities.

It shall be levied by the competent Territorial Government of the Historical Territories or by the State, according to whether the taxable person files his or her Income Tax return with the one Administration or the other, regardless of the territory wherein lie the assets liable to taxation.

In the case of taxable persons liable to taxation by real nature obligation, the Tax shall be levied by the Territorial Governments of the Historical Territories when the greatest value of the assets and rights lies in Basque territory. For these

purposes, assets and rights shall be deemed to lie in Basque territory when they are located, may be exercised, or must be fulfilled in said territory.

When a non-resident whose last residence was in the Basque Country chooses to file in compliance with personal income, he or she may do so in common or Basque territory pursuant to the respective legislation.

SECTION 6 INHERITANCE AND GIFT TAX

Article 25. Applicable legislation and levying of the tax

One. The Inheritance and Gift Tax is agreed to be a tax subject to autonomous legislation by the Basque authorities.

It shall be levied by the Territorial Government deemed competent by virtue of the Historical Territory in the following cases:

- a) Donations or gifts ‘mortis causa’ and income received by life insurance beneficiaries when the decedent’s place of habitual residence is in the Basque Country on the date of accrual of the tax.
- b) Donations of property when such property is located in Basque territory.

For these purposes of the provisions contained in this letter, the transfer free of charge of securities referred to in article 108 of Law No. 24 of July 28, 1988 governing the Securities Market shall have the consideration of gifts of real property.

- c) In all other gifts, when the habitual residence of the transferee is in the Basque Country.
- d) In the event that the taxable person is a resident abroad, when all the assets or rights in question are located, may be exercised or must be fulfilled in Basque territory, and in the case of receipt of sums from life insurance policies when the contract was made with insurance entities residing in Basque

territory, or when the contract was concluded in the Basque Country with foreign entities operating therein.

Two. In the cases envisaged in letters a) and b) of the preceding point, the Territorial Governments of the Historical Territories shall apply the regulations of the common territory when the decedent or transferee acquired residence in the Basque Country less than 5 years prior to the date of accrual of the tax. This rule shall not apply to persons who have preserved the political consideration of Basque citizens pursuant to article 7.2 of the Statute of Autonomy.

Three. When in a document a single transferor gratuitously transfers assets or rights to a single transferee, and by virtue of the preceding point the income must be considered as produced in both common and Basque territory, to each shall correspond the result of applying to the value of the transferred items whose income is attributed thereto, the average rate which, according to its rules, would correspond to the value of the totality of transferred items.

Four. In cases of accumulation of gratuitous transfers, to the Basque Country shall correspond the income resulting from applying to the assets and rights actually transferred, the average rate which, according to its rules, would correspond to the value of the totality of accumulated items.

For these purposes, totality of accumulated assets and rights shall be understood to mean those from prior gifts and those that are the object of the actual transfer.

SECTION 7 VALUE ADDED TAX

Article 26. Applicable legislation

The Value Added Tax is agreed to be a tax subject to the same rules in terms of substance and form as those established at any given time by the State. Nevertheless, the competent Institutions of the Historical Territories may adopt their own filing and payment forms, which shall contain at least the same information as those of the common territory, and may set the payment deadlines for each settlement period, which shall not be substantially different from those set by the Administration of the State.

Article 27. Levying of the tax

One. Value Added Tax shall be levied in accordance with the following rules:

First.—Taxable persons operating solely in Basque territory shall file exclusively with the relevant Territorial Government and those operating solely in the common territory shall do so with the Administration of the State.

Second.—Taxable persons operating in both the common and Basque territory shall file returns and pay taxes to both Administrations according to the relative volume of operations in each territory, determined in accordance with the points of connection set out in the following article.

Third.—Taxable persons whose total turnover in the preceding year did not exceed six million euros shall in all cases file a return, wherever their turnover is generated, with the Administration of the State when their fiscal domicile is located in the common territory, and with the relevant Territorial Government if their fiscal domicile is located in the Basque Country.

Two. For the purposes of this rule, total turnover shall be understood as the total consideration, net of Value Added Tax and the equivalency surcharge, where applicable, obtained for supplies of goods and of services performed in the course of the taxable person's business or professional activity.

In cases of the activity being started during the tax year, the six million euro figure shall be computed on the basis of the business volume registered during the first calendar year.

Should the first year of the activity fail to coincide with the calendar year, a full year's turnover shall be calculated for computing the aforesaid figure.

Three. For the purposes of the provisions contained in the preceding article, a taxable person shall be deemed to operate in one territory or the other when, pursuant to the criteria laid down in article 28, said taxable person performs the supply of goods or services therein.

Four. The tax for operations related to the intra-community traffic of goods, with the exception of the cases specified in the following paragraphs contained in this article, shall be levied according to the terms laid down in point one here-above.

Five. The tax on intra-community acquisitions of new means of transport purchased by private individuals or by persons or entities whose transactions are wholly exempt or not subject to Value Added Tax, shall be levied by the Administration of the common territory or Basque territory in which said means of transport are definitively registered.

Six. The tax shall be levied by the Administration of the State or the competent Territorial Government of the Historical Territories or by the State, according to whether the taxable person has his or her domicile in common or Basque territory, in the following cases:

- a) Intra-community acquisitions of taxable goods either by choice or due to having exceeded the quantitative limit set in the legislation regulating the tax, purchased by taxable persons who only perform transactions which do not carry the right to total or partial deduction for input tax, or by legal entities that do not act in their entrepreneurial capacity or by professionals.

- b) Intra-community acquisitions of goods under the simplified system, the special system for agriculture, livestock and fishing operations, and the equivalency surcharge system.

Article 28. Determination of place of transactions

One. For the purposes of the present Economic Agreement, the following transactions subject to taxation shall be understood to be performed in the Historical Territories of the Basque Country:

A) Supplies of goods:

- First. Supplies of movable tangible property when delivery to the purchaser is performed in Basque territory. When the goods must be shipped in order to be delivered to the purchaser, the supplies shall be understood to have been performed in the place where the

goods were located at the moment of initiating the dispatch or shipment. The following exceptions shall apply to this rule:

- a) In the case of goods processed by the supplier, the supply shall be understood to be made in Basque territory if the final processing of the goods in question was performed in that territory.
- b) In the case of supplies involving the installation of industrial facilities outside the Basque Country, said supplies shall be deemed performed in Basque territory if the preparation and manufacturing work is done in said territory and the cost of the installation or assembly does not account for over 15 per cent of the total remuneration.

Conversely, supplies involving the installation of industrial facilities in the Basque Country shall not be deemed performed in Basque territory if the preparation and manufacturing work is done in the common territory and the cost of the installation or assembly does not exceed 15 per cent of the total remuneration.

- c) In the case of goods which must be dispatched or shipped from another EU Member State and which meet the requirements laid down in the legislation regulating Value Added Tax for application of the distance selling system, supplies shall be deemed performed in Basque territory when the delivery finalises in said territory.

Second. Supplies made by electric power producers when the power generation plants are located in Basque territory.

Third. The handing-over of real property, when the properties are located in Basque territory.

B) Supplies of services:

First. Supplies of services shall be deemed performed in Basque territory when they are effected from that territory.

Second. Exceptions to the preceding paragraph are services directly related to real property, which shall be considered performed in the Basque Country when said assets lie in Basque territory.

Third. Moreover, excepted from the provisions contained in the preceding paragraphs are insurance and capitalisation transactions, regarding which the rules laid down in article 32 of the present Economic Agreement shall apply.

C) The provisions contained in the preceding letters notwithstanding, levying of the tax shall be the competence of the Administration of the State when the fiscal domicile of the taxable person is located in the common territory, and of the relevant Territorial Government when the taxable person's fiscal domicile is located in the Basque Country, for the following transactions:

First. Supplies made by agricultural, forestry, livestock or fishing operations, and fishing boat owners, each harvesting directly from its own fields, forests or nets, of unprocessed natural products.

Second. Transport services, including removals, towing and crane operations.

Third. Lease or rental of means of transport.

Two. Entities not performing the transactions set forth in this article shall file their returns with the Territorial Governments they have their fiscal domicile in Basque territory.

Article 29. Tax administration and inspection

One. Results of the assessment of the tax shall be attributed to the competent Administrations in proportion to the volume of consideration, net of Value Added Tax, received in exchange for taxable supplies of goods and services and for those which are exempted and carry the right to deduct, performed in the respective territories during each calendar year.

Two. The provisionally applicable proportions for each calendar year shall be those determined on the basis of the previous year's transactions.

The provisional proportion applied to tax returns for the first calendar year of the activity shall be estimated by the taxable person on the basis of his or her estimate of the transactions to be performed in each territory, without prejudice to the final adjustments thereto.

The preceding paragraph notwithstanding, upon prior notice to the Coordination and Evaluation Committee pursuant to Chapter III Section 2 of the present Economic Agreement, a different proportion may be applied in the following cases:

- a) Mergers, divisions and transfer of assets.
- b) Start-up, wind-up, increase or reduction of activity in common or Basque territory entailing a significant variation in the proportion calculated according to the criterion specified in the first paragraph of this number.

In all cases, the variation shall be considered significant when it entails a difference of 15 or more percentage points in the proportion applicable to any of the territories.

Three. In the last tax return filed at the year-end, the taxable person shall calculate the definitive proportions according to the transactions actually performed in said period, and shall adjust as necessary the returns filed in the previous settlement periods with each of the Administrations.

Four. Persons liable to taxation shall file returns with the competent Administrations stating in all cases, the applicable proportions and the tax owed to, or to be refunded by, each of the Administrations.

Five. Applicable refunds shall be made by the respective Administrations in the proportion that pertains to each of them.

Six. Inspections shall be performed in accordance with the following criteria:

- a) Inspection of taxable persons that must file returns exclusively with the Territorial Governments of the Historical Territories or, as the case may be, with the Administration of the State, shall be performed by the Tax Inspection Bodies of each of said Administrations.
- b) Inspection of taxable persons that must pay taxes in proportion to the relative turnover generated in common and Basque territory shall be carried out in accordance with the following rules:

First.—Taxable persons having their fiscal domicile in the common territory: Verification and inspection shall be performed by the State Tax Inspection Bodies, who shall regularise the taxable person's tax situation with respect to all the competent Tax Authorities, including the proportion of the tax that corresponds to each of the different Administrations.

Second.—Taxable persons having their fiscal domicile in Basque territory: The verification and investigation shall be performed by the competent bodies of the Territorial Government of the Historical Territory in question without prejudice to the collaboration of the Administration of the State, and shall be deemed effective by all the competent Administrations, including as regards the proportion of the tax corresponding to each. In the event that the taxable person generates in the common territory 75 per cent or more of its total turnover, in accordance with the points of connection laid down herein, the competent authority shall be the Administration of the State, without prejudice to the collaboration of the Territorial Governments of the Historical Territories of the Basque Country.

Should the inspectors find that there is a tax liability due or an amount to be refunded corresponding to both Administrations, the collection or payment in question shall be made by the inspecting Administration, without prejudice to any compensations from each other to which the parties may be entitled. The inspection agencies of the competent Administrations shall communicate the results of their actions to the rest of the Administrations affected.

Third.—The conditions laid down in the preceding rules are without prejudice to the faculties corresponding to the Territorial Governments of the Historical Territories within the scope of their territories in matters of verification and investigation, although their actions cannot have economic effects on taxpayers' final returns filed as a result of actions of the agencies of the competent Administrations.

Fourth. The proportions set in verifications by the competent Administration shall affect the subject's paid-in taxes, without prejudice to those taxes which, following said verifications, are definitively agreed between both competent Administrations.

Seven. Recapitulative statements of intra-community supplies and acquisitions shall be filed with the Tax Authority empowered to inspect and investigate the relevant taxable persons.

SECTION 8

CAPITAL TRANSFER TAX AND STAMP DUTY

Article 30. Applicable legislation

The Capital Transfer Tax and Stamp Duty is agreed to be a tax subject to Basque legislation, except in cases of certain company operations, bills of exchange and documents used in their stead or serving the purposes of a draft, which shall be regulated by the so-called common legislation. In such cases the competent institutions of the Historical Territories may adopt their own filing and payment forms, which shall contain at least the same information as those of the common territory, and may set the payment deadlines for each settlement period, which shall not be substantially different from those set by the Administration of the State.

Article 31. Levying of the tax

The tax shall be levied by the respective Territorial Governments on the following:

- One. On transfers for valuable consideration and leases of property, and on the establishment and assignment for valuable consideration of real property rights, including guarantees, when the assets are located in Basque territory.

In the cases referred to in article 108 of Law No. 24 of July 28, 1988

governing the Securities Market, when the real property comprising the assets of the entity whose securities are transferred is located in Basque territory.

- Two. On transfers for valuable consideration of movable goods, stock and loans, as well as the establishment and assignment of rights thereon for valuable consideration, when the individual purchaser has his or her habitual residence in the Basque Country or the corporate purchaser has its fiscal domicile therein.

The above notwithstanding, two provisions are established:

- a) In transfers of shares, subscription rights, debentures and similar securities, as well as participation certificates, the place of formalisation of the transaction shall apply.
- b) In the constitution of chattel mortgages or pledges without transfer of possession, or concerned with ships, vessels or aircraft, the territory where such acts are to be registered shall apply.

- Three. On the constitution of simple loans, guarantee deposits, nonproperty leases and pensions, when the borrower, lessee, receiver of guarantee or pensioner is a private individual and has his or her habitual residence in the Basque Country, or is a corporate body and has its fiscal domicile in that territory.

In cases of loans backed by guarantees, when the mortgaged assets are located in Basque territory or when the corresponding mortgages or pledges without transfer of possession registerable therein.

If a single loan is guaranteed with a mortgage on real property located in the common or Basque territory or with a mortgage or pledge without transfer of possession registerable in both territories, taxes shall be paid in the proportion corresponding to each Administration, and in the absence of this specification in the deed, in the proportion shall correspond to the verified value of the assets.

- Four. On government concessions of assets when located in the Basque Country, and on the execution of works or services when executed or rendered in the Basque Country. These same rules shall apply for ad-

ministrative actions and transactions liable to taxation by government concession equalisation.

In cases of concessions on goods exceeding the territorial scope of the Basque Country, the tax levied shall be proportionate to the extension of such in the Basque territory.

In cases of concessions on the execution of works exceeding the territorial scope of the Basque Country, the tax levied shall be proportionate to the extension of such in the Basque territory.

In cases of concessions on service operations exceeding the territorial scope of the Basque Country, the tax levied shall be calculated according to the arithmetic mean of the percentages of population and area relative to the entirety of the Autonomous Communities involved.

In cases of joint concessions exceeding the territorial scope of the Basque Country, the tax levied shall be calculated by applying the criteria laid down in the three paragraphs hereabove to the corresponding share of the concession.

In the case of government concessions exceeding the territorial scope of the Basque Country, the inspection shall be performed by the competent bodies of the Territorial Government of the Historical Territory when the fiscal domicile of the concessionary entity is located therein.

- Five. On certain corporate operations, when any of the following circumstances apply:
- a) The entity has its fiscal domicile in the Basque Country.
 - b) The entity has its corporate domicile in the Basque Country, provided that the effective seat of management is not located within the territorial scope of the Tax Authority of another EC Member State, or if so located, said State does not impose a similar tax on such corporate operations.
 - c) The entity performs business transactions in the Basque Country when its effective seat of management and corporate domicile are not located within the territorial scope of the Tax Authority of an-

other EC Member State, or if so located, said States do not impose a similar tax on such corporate operations.

- Six. On notarised statements, deeds and certificates, when they are authorised or issued in Basque territory.

The preceding paragraph notwithstanding, in cases subject to sliding scale stamp duty, when the Registry where the assets or transactions are to be inscribed or registered is located in the Basque Country.

- Seven. On bills of exchange and documents used in their stead or for draft purposes, and on promissory notes, bonds, debentures and similar securities, when issued in the Basque Country; in the event that their issue occurs abroad, when their first holder has his or her habitual residence or fiscal domicile in said territory.

- Eight. On caveats, when made in the Public Registries of the Basque Country.

SECTION 9 TAX ON INSURANCE PREMIUMS

Article 32. Applicable legislation and levying of the tax

One. The Tax on Insurance Premiums is agreed to be a tax subject to the same rules in terms of substance and form as those established at any given time by the State.

Nevertheless, the competent Institutions of the Historical Territories may adopt their own filing and payment forms, which shall contain at least the same information as those of the common territory, and may set the payment deadlines for each settlement period, which shall not be substantially different from those set by the Administration of the State.

Two. The tax shall be levied by the respective Territorial Governments of the Historical Territories when the location of the risk or commitment, in insurance and capitalisation operations, arises in Basque territory.

Three. For these purposes, location of risk shall be understood to be in Basque territory in accordance with the following rules:

First.—In cases of insurance on real property, when the assets are located in said territory. The same rule shall apply when the insurance refers to real property and its content, if the latter is covered by the same insurance policy. In the event that the insurance refers exclusively to movable goods located within premises, with the exception of goods in commercial transit, when the premises wherein the goods are contained lie in said territory.

If a single insurance covers the risk of real property located in both common and Basque territory the location of risk shall be determined by the value of the properties situated in each of the territories.

Second.—In the event that the insurance refers to vehicles of any kind, when the person or entity under whose name the vehicle is registered has his or her habitual residence or fiscal domicile in the Basque Country.

Third.—In the event that the insurance refers to risks arising during travel or outside the habitual residence of the policyholder, for a period equal to or less than four months, when the policyholder has signed the contract in Basque territory.

Fourth.—In all cases not explicitly covered by the preceding rules, when the policyholder, if an individual, has his or her habitual residence in the Basque Country, or if otherwise, when the corporate or branch domicile referred to in the contract is located in said territory.

Four. The location of the commitment shall be understood to be in Basque territory when the policyholder has his or her habitual residence therein, in the case of individuals, or its corporate or branch domicile, as the case may be, in this territory in the event of corporate bodies.

Five. In the absence of specific rules of location pursuant to the points here-above, insurance and capitalisation transactions shall be understood to take

place in Basque territory when the contracting party is an entrepreneur or a professional who enters into such transactions in the course of his or her business or professional activities and has his or her effective seat of management in said territory or has a permanent establishment therein, or in lieu thereof, his or her place of residence.

SECTION 10 EXCISE DUTIES

Article 33. Applicable legislation and levying of the taxes

One. Excises Duties are agreed to be taxes subject to the same rules in terms of substance and form as those established at any given time by the State. Nevertheless, the competent Institutions of the Historical Territories may adopt their own filing and payment forms, which shall contain at least the same information as those of the common territory, and may set the payment deadlines for each settlement period, which shall not be substantially different from those set by the Administration of the State.

Two. Excise Duties shall be levied by the respective Territorial Governments of the Historical Territories when the liability arises in the Basque Country.

Refunds of Excise duties shall be paid by the Administration of the territory where the liability in question was paid in. Nevertheless, in cases where it is not possible to determine in which Administration the duty was paid in, the refund shall be made by the Administration of the territory where entitlement to the refund is generated. Authority over the establishments located in the Basque Country, as well as the authorisation system of same, under any of its regimes, shall be exercised by the respective Territorial Governments of the Historical Territories. However, prior notice shall be given to the State Administration and the Coordination and Evaluation Committee.

Three. The Excise Duty on Certain Means of Transport shall be levied by the respective Territorial Governments, when the vehicles are definitively registered in Basque territory.

The provisions pursuant to paragraph one hereabove notwithstanding, the competent institutions of the Historical Territories may increase the tax rate by up to 10 per cent of the rates laid down at any given time by the State.

Registration shall be performed according to the criteria laid down in the currently applicable legislation. In particular, individuals shall register vehicles in the province where their habitual residence is located.

SECTION 11

EXCISE DUTY ON RETAIL SALES OF CERTAIN MINERAL OILS

Article 34. Applicable legislation and levying of the tax

One. The Excise Duty on Retail Sales of Certain Mineral Oils is agreed to be a tax subject to the same rules in terms of substance and form as those established at any given time by the State.

The above notwithstanding, the competent institutions of the Historical Territories may establish the tax rate within the limits in force at any given time in the common territory.

The competent Institutions of the Historical Territories may also adopt their own filing and payment forms, which shall contain at least the same information as those of the common territory, and may set the payment deadlines for each settlement period, which shall not be substantially different from those set by the Administration of the State.

Two. The Excise Duty on Retail Sales of Certain Mineral Oils shall be levied by the respective Territorial Governments on the following:

- a) Sales or supplies of the products affected by this tax executed in public retail establishments located in Basque territory, with the exception of supplies to end consumers who make use of the facilities necessary for the reception and consumption of said products outside of the Basque territory. Conversely, the tax for supplies executed from common territory to end consumers who make who make use of the facilities necessary for the reception and con-

sumption of said products in the Basque Country shall be levied by the Territorial Governments.

- b) Intra-community imports and acquisitions of the products affected by this tax when intended for direct consumption by the importer or purchaser at a service station located in the Basque Country.

SECTION 12 OTHER INDIRECT TAXES

Article 35. Applicable legislation

Other taxes shall be regulated by the same basic principles, substantive rules, taxable events, exemptions, accruals, bases, rates, fees and deductions as those established at any given time by the State.

SECTION 13 GAMING DUTIES

Article 36. Applicable legislation

Gaming Duties are agreed to be taxes subject to autonomous legislation when the authorisation is obtained in the Basque Country. The same rules in terms of taxable events and taxable persons shall apply as those established at any given time by the State.

Article 37. Levying of the tax

One. Duties on games of chance and gambling shall be levied by the Territorial Government deemed competent by virtue of the Historical Territory when the taxable event is performed in the Basque Country.

Two. Duties on raffles, betting and random combinations shall be levied by the Territorial Government deemed competent by virtue of the Historical Territory when the authorisation thereof must be obtained in the Basque Country.

SECTION 14 FEES

Article 38. Competence for levying

Fees collected for the special use or exploitation of Territorial Government public domain for services rendered or activities performed thereby under public law shall be levied by the Territorial Governments.

SECTION 15 MUNICIPAL TAX AUTHORITIES

Article 39. Tax on Immovable Property

The Tax on Immovable Property shall be regulated by the rules adopted by the competent Institutions of the Historical Territories and shall be levied on rural and urban assets located in the respective Historical Territory.

Article 40. Tax on Business and Professional Activities

One. The Tax on Business and Professional Activities shall be regulated by the rules adopted by the competent Institutions of the Historical Territories.

Two. The competent Institutions of the Historical Territories shall be responsible for levying the Tax on Business and Professional Activities exercised in their territory, in accordance with the following rules:

- a) In cases of minimum municipal rates, or raised rates as applicable, when payable in favour of the municipalities of the Historical Territory.
- b) In cases, where applicable, of provincial rates when the activity is exercised in the corresponding Historical Territory.

- c) In cases of rates entitling the taxpayer to perform his or her activity in more than one province when his or her habitual residence or fiscal domicile is in the Basque Country, as the case may be. Payment of said amounts to the corresponding Administration of the common or Basque territory shall entitle the taxpayer to exercise his or her activity in both territories.

Article 41. Motor Vehicle Tax

The Motor Vehicle Tax shall be regulated by the rules laid down by the competent Institutions of the Historical Territories, when the domicile appearing on the driver's licence corresponds to a town or city in their territory.

Article 42. Other municipal taxes

The competent Institutions of the Historical Territories may maintain, establish and regulate, within their own territory, the system governing the remaining taxes peculiar to municipalities, pursuant to the criteria specified below:

- a) Attention to the general structure established for the system of municipal taxes under the common regime, and to the principles on which said structure is based, respecting any harmonisation rules envisaged in article 4 hereof that are applicable in this field.
- b) Non establishment of indirect taxes other than those of the common regime, the revenues from which might be transferred or passed on outside the territory of the Basque Country.

SECTION 16 ADMINISTRATIVE AND PROCEDURAL RULES

Article 43. Habitual residence and fiscal domicile

One. For the purposes of the provisions contained in the present Economic Agreement, it shall be understood that resident individuals have their habitual residence in the Basque Country pursuant to the successive application of the following rules:

First.—When they remain in said territory for more days of the tax period, for Personal Income Tax purposes; of the previous year counting up to the day prior to the date of accrual for the purposes of Inheritance and Gift Tax, Capital Transfer Tax, Stamp Duty and Excise Duty on Certain Means of Transport.

For the remaining taxes the habitual residence of taxable persons shall be the same as that used for Personal Income Tax at the date of accrual of said taxes.

To determine the period of stay, temporary absences shall be computed.

Unless there is evidence to the contrary, an individual shall be considered to remain in Basque territory when this is the location of his or her habitual dwelling.

Second.—When this is where they have their main centre of interests, considering as such the territory where they obtain most of their taxable income for Personal Income Tax purposes, excluding, for these purposes, income and capital gains arising from capital investments, and income allocated under the tax transparency system, except in the case of professionals.

Third.—When this is the territory of their last declared residence for Personal Income Tax purposes.

Two. Individuals resident in Spanish territory who do not remain in said territory for more than 183 days of the calendar year shall be considered residents of the territory of the Basque Country when they have their main centre or base of business or professional activity, or of their economic interests, in said territory.

Three. When it is presumed that an individual resides in Spanish territory, s/he shall be considered to have her/his habitual residence in Basque territory if her/his not legally separated spouse and dependent children of minor age have their habitual residence in the Basque territory.

Four. For the purposes of the present Economic Agreement, the following shall be understood to have their fiscal domicile in the Basque Country:

- a) Individual taxpayers who have their habitual residence in the Basque Country.
- b) Corporate persons and other entities subject to Corporation Tax when their corporate domicile is in said territory, provided that the administrative management and direction of their business is effectively centralised therein. Otherwise, the place where said management or direction takes place shall apply. In cases where the place of domicile cannot be established by applying the aforesaid criterion, the place where the greatest fixed asset value is located shall apply.
- c) Permanent establishments whose administrative management and direction of their business takes place in the Basque Country. In cases where the place of domicile cannot be established by applying the aforesaid criterion, the place where the greatest fixed asset value is located shall apply.
- d) Civil societies and entities without independent legal status whose administrative management and direction takes place in the Basque Country. In cases where the place of fiscal domicile cannot be established by applying the aforesaid criterion, the place where the greatest fixed asset value is located shall apply.

Five. Persons liable for Corporation Tax and permanent establishments owned by non-residents shall be obliged to notify both Administrations of changes of address or fiscal domicile causing changes in competence for levying said taxes. For Personal Income Tax notification shall be understood to be completed upon filing a return for said tax.

Six. Any disputes between Administrations that may arise over the domicile of taxpayers shall be resolved, following a hearing, by the Arbitration Board provided for in Chapter III, Section 3 of the present Economic Agreement.

Seven. Individuals residing in common or Basque territory who change their habitual residence from one to the other shall fulfil their tax obligations in the new place of residence, when the latter serves as the point of connection, as of that moment.

Moreover, when by virtue of the provisions contained in this point it is deemed that no change of residence has taken place, individuals must file the necessary supplementary returns, including late payment interest.

Changes of residence made for the purposes of achieving lower tax liability shall not be deemed effective.

It shall be presumed, unless the new residence extends continuously for a minimum of three years, that no change has taken place, for Personal Income Tax and Wealth Tax purposes, when the following circumstances occur:

- a) For the year in which the change of residence occurs, or the year thereafter, the taxpayer's Personal Income Tax tax base is at least 50 per cent higher than the year prior to the change. If joint returns are filed, individualisation rules shall apply.
- b) For the year in which said situation occurs, the taxpayer's Personal Income Tax liability is lower than it would have been under the applicable legislation of the territory of residence prior to the change.
- c) The year after the event referred to in letter a), or the following year, the taxpayer again acquires habitual residence in said territory.

Eight. Unless there is evidence to the contrary, it shall be presumed that no change of fiscal domicile of corporate persons has taken place if in the year before or after the change no earnings are filed or the professional activity has been terminated.

Nine. Changes in taxpayer domicile may be promoted by any of the Administrations involved. The Administration shall transmit its proposal, together with the necessary antecedents, to the other Administration, which in two months' time shall announce its decision on the change of domicile and on the effective date. If the latter responds by endorsing the proposal, the competent Administration shall then inform the taxpayer.

Should the Administrations fail to reach an agreement, the procedure may continue in compliance with the provisions laid down in number Six of the present article.

Article 44. Fiscal offences

In cases where the Tax Authority considers that infractions could constitute an offence against the Public Treasury regulated under the Penal Code, the case shall be decided by the competent jurisdiction and the administrative procedure shall not be pursued until the court has handed down a firm ruling, whether the legal proceedings are dismissed or closed, or the case is returned by the Public Prosecutor.

Article 45. Cooperation of financial institutions for tax administration and inspection purposes

One. The Territorial Governments of the Historical Territories of the Basque Country shall be responsible for the tax inspection of the accounts and loan and deposit operations both of financial institutions and of any individuals or corporate bodies that are engaged in banking or loan operations, in order to levy the taxes under their competence.

Regarding actions to obtain the information referred to in the preceding paragraph and performed outside the Basque territory, the provisions contained in number Two herebelow shall apply.

Two. Investigation and verification actions which are within the scope of competence attributed hereby to the Territorial Governments, but which must be performed outside their territory, shall be performed by the Tax Inspection services of the State, or by those of the competent Autonomous Communities when dealing with taxes governed by autonomous legislation, at the request of the competent body of the aforesaid Territorial Governments.

When the Tax Inspection Service of the State or of the Territorial Governments of the Historical Territories detect, as a result of their inspection and verification activities, findings of fiscal relevance for the other Administration, it shall notify the latter of same as specified in the pertinent regulations.

Article 46. Obligation to provide information

One. Summaries of withholdings and payments on account shall be submitted, pursuant to their respective legislation, to the competent Administration for taxing withholdings and payments on account, which shall be included therein.

Entities that are depositaries or administrators of income on assets which, in accordance with the corresponding legislation, require annual summaries on withholdings and payments on account, shall submit said summaries, pursuant to their respective legislation, to the competent Administration for verification and investigation of said entities.

Entities liable to payment of the Corporation Tax levied by the State and by the Territorial Governments shall submit annual summaries on withholdings and payments on account corresponding to the income referred to in articles 7 (One, c) and 9 (One, First, a) of the present Economic Agreement pursuant to the rules on place, form and notwithstanding, the rules regarding place, form and filing deadline determined by the competent Administration for levying the tax.

Two. Tax returns filed for the purpose of fulfilling the different legal obligations for providing general tax information shall be submitted, in accordance with their respective legislation, to the competent Administration of the State or the Territorial Governments of the Historical Territories, according to the following criteria:

- a) In the case of taxpayers who engage in business and professional activities, to the competent Administration for the verification and investigation of said activities.
- b) In the case of taxpayers who do not engage in business and professional activities, depending on whether their fiscal domicile is in the common or Basque territory.

Three. Generally applicable tax returns shall be filed, in accordance with their respective legislation, with the competent Administration wherein lies the fiscal domicile of the liable taxpaying individual or entity, and also with the Adminis-

tration to which said person or entity must submit, in accordance with the rules laid down in the present Economic Agreement, one or more of the following tax returns:

- Tax return for withholdings and payments on account
- Corporation Tax return
- Value Added Tax return
- Business and Professional Activities return

Article 47. Corporate mergers and divisions

In merger and division operations of companies whose taxable income, as the case may be, must be recognised by both Administrations pursuant to the filing criteria contained in article 14 hereabove, the Territorial Governments of the Historical Territories shall apply identical regulations as those in effect at any given time in the common territory, and the corresponding administrative procedures of each Administration shall be complied with.

CHAPTER II. FINANCIAL RELATIONS

SECTION 1 GENERAL REGULATIONS

Article 48. General principles

The financial relations between the State and the Basque Country shall be governed by the following principles:

First.—Fiscal and financial autonomy of the Institutions of the Basque Country in the development and implementing of its powers.

Second.—Respect for the principle of solidarity in the terms laid down in the Constitution and in the Statute of Autonomy.

Third.—Coordination and cooperation with the State in matters of budgetary stability.

Fourth.—Contribution by the Basque Country to charges of the State not assumed by the Basque Autonomous Community, as determined by the present Economic Agreement.

Fifth.—The faculties of financial supervision exercised by the State at any time in matters concerning municipalities shall correspond to the competent Institutions of the Basque Country, without this being construed to mean, in any way whatsoever, that the Basque Municipalities shall have a lower level of autonomy than that enjoyed by those under the common regime.

Article 49. Concept of the quota

The contribution of the Basque Country to the State shall consist of an overall quota, comprising the quotas from each of the Historical Territories, as the Basque Country's share of all the charges of the State not assumed by the Autonomous Community of the Basque Country.

Article 50. Periodicity and updating of the quota

One. Every five years, by means of a law passed by the Spanish Parliament, subject to the prior agreement of the Joint Committee on the Economic Agreement referred to in the following article, the methodology to be used in setting the quota, in the five-year period, shall be determined in accordance with the general principles laid down herein, and the quota for the first year of the five-year period shall be approved.

Two. In each of the years following the first, the Joint Committee on the Economic Agreement shall bring the quota up to date by applying the methodology approved in the Law referred to in the preceding paragraph.

Three. The principles underlying the methodology for determining the quota and contained herein may be amended in the Quota Act, when circumstances and the experience acquired in its application make this advisable.

Article 51. Basque Municipalities' share in revenues from taxes not covered by the Economic Agreement

In cases of indirect contribution through a participation in such taxes, the Territorial Governments of the Historical Territories shall distribute the amounts which, pursuant to the general apportionment rules, correspond to the Municipalities in their respective Historical Territory.

SECTION 2 METHODOLOGY FOR DETERMINING THE QUOTA

Article 52. Charges of the State not assumed by the Autonomous Community

One. Charges of the State not assumed by the Autonomous Community are those which correspond to competences which have not been actually assumed by the latter.

Two. To determine the total amount of said charges, the entire State Budget allocation corresponding to the competences assumed by the Autonomous Community as of the entry into effect of the transfers established in the corresponding Decrees shall be deducted from the total State Budget expenditures.

Three. Among others, the following shall be considered charges not assumed by the Autonomous Community:

- a) The sums allocated in the General State Budget to the Inter-territorial Compensation Fund referred to in article 158.2 of the Spanish Constitution. The contribution to this burden shall be made by means of the procedure laid down in the Quota Act.
- b) Transfers or subsidies granted by the State to public entities, provided that the competences exercised thereby have not been assumed by the Autonomous Community of the Basque Country.
- c) The interest payments and repayments of principal on all State debts as determined in the Quota Act.

Four. Apportionment to the different Historical Territories of their share of non-assumed charges shall be made by applying the rates referred to in article 57 herebelow.

Article 53. Adjustment to consumption for Value Added Tax

One. For the purpose of perfecting the attribution of Value Added Tax revenues, an adjustment mechanism is set up between the actual revenue capacity and the rate of consumption of the Basque Country.

Two. The result of applying the following mathematical equation shall be used as the adjustment mechanism:

$$RF_{PV} = RR_{PV} + a * RR_{AD} + (a - b) * H$$

Where:

$$H = \frac{RR_{PV}}{b} \quad \text{if} \quad \frac{RR_{PV}}{RR_{TC}} \leq \frac{b}{1-b}$$

$$H = \frac{RR_{TC}}{1-b} \quad \text{if} \quad \frac{RR_{PV}}{RR_{TC}} \geq \frac{b}{1-b}$$

RF_{PV} = Final annual revenue for the Basque Country

RR_{PV} = Real annual revenue of the Basque Country

RR_{TC} = Real annual revenue of the common territory

RR_{AD} = Real annual revenue from imports

$$a = \frac{\text{Consumption of residents of the Basque Country}}{\text{Consumption of residents of the State (minus Canary Islands, Ceuta and Melilla)}}$$

$$b = \frac{v - f - e + i}{V - F - E + I}$$

v = Gross added value of the Basque Country at factor cost

V = Gross added value of the State (minus Canary Islands, Ceuta and Melilla)

f = Gross capital formation of the Basque Country

F = Gross added value of the State (minus Canary Islands, Ceuta and Melilla)

e = Exports from the Basque Country

E = Exports from the State (minus Canary Islands, Ceuta and Melilla)

i = Intra-community acquisitions of goods in the Basque Country

I = Intra-community acquisitions of goods in the State (minus Canary Islands, Ceuta and Melilla)

Three. The value of the rates referred to the paragraph One hereabove shall be determined in accordance with the Quota Act.

Four. The provisional attribution of the aforesaid adjustment for each of the excise duties and the definitive regularisation thereof in the immediately subsequent year shall be carried out in accordance with the procedure in force at the time and approved by the Joint Committee on the Economic Agreement.

Article 54. Adjustment to consumption for Excise Duties

One. For the purpose of perfecting the attribution of revenues from Excise Duties on Alcohol and Alcoholic Beverages, Intermediate Products, Beer, Mineral Oils and Manufactured Tobacco, an adjustment mechanism is set up between the actual revenue capacity and the rate of consumption of the Basque Country for each of these taxes.

Two. The result of applying the following mathematical equation shall be used as the adjustment mechanism for each of the taxes listed hereabove:

$$RF_{PV} = RR_{PV} + c * RR_{AD} + (c - d) * H$$

Where:

$$H = \frac{RR_{PV}}{d} \quad \text{if} \quad \frac{RR_{PV}}{RR_{TC}} \leq \frac{d}{1-d}$$

$$H = \frac{RR_{TC}}{1-d} \quad \text{if} \quad \frac{RR_{PV}}{RR_{TC}} \geq \frac{d}{1-d}$$

RF_{PV} = Final annual revenue of the Basque Country from Excise Duties on Alcohol and Alcoholic Beverages, Intermediate Products, Beer, Mineral Oils and Tobacco

RR_{PV} = Real annual revenue of the Basque Country from Excise Duties on Alcohol and Alcoholic Beverages, Intermediate Products, Beer, Mineral Oils and Tobacco

RR_{TC} = Real annual revenue of the common territory from Excise Duties on Alcohol and Alcoholic Beverages, Intermediate Products, Beer, Mineral Oils and Tobacco

RR_{AD} = Real annual revenue from Excise Duties from imports of Alcohol and Alcoholic Beverages, Intermediate Products, Beer, Mineral Oils and Tobacco

$$c = \frac{\text{Consumption of residents of the Basque Country}}{\text{Consumption of residents of the State (scope of application of the tax)}}$$

$$d = \frac{\text{Revenue capacity of the Basque Country}}{\text{Revenue capacity of the State (scope of application of the tax)}}$$

Three. The value of the rates referred to the paragraph One hereabove shall be determined in accordance with the Quota Act.

Four. The provisional attribution of the aforesaid adjustment for each of the excise duties and the definitive regularisation thereof in the immediately subsequent year shall be carried out in accordance with the procedure in force at the time and approved by the Joint Committee on the Economic Agreement.

Article 55. Other adjustments

One. For the purpose of perfecting direct taxation, an adjustment shall be made for the amounts arising from the cases laid down in articles 9 (One, First, b) and 7 (Two) herein.

Two. Similarly, in the Quota Act, other adjustment mechanisms can be established, as the case may be, which may improve the system for estimating the public revenue attributable to the Basque Country and to the rest of the State.

Three. The amounts resulting from application of the pertinent adjustments shall constitute the quota for each Historical Territory.

Article 56. Compensations

One. From the quota corresponding to each Historical Territory the following items shall be subtracted for compensation purposes:

- a) The attributable portion of non-transferred taxes.
- b) The attributable portion of budgetary income not from taxes.
- c) The attributable portion of the deficit figuring in the General State Budget, as determined by the Quota Act. In the event of a surplus, the opposite would apply.

Two. Also subject to compensation of the quota corresponding to each Historical Territory is the portion attributable to the Basque Country for revenues utilised in the financing of Social Security functions and services related to health and social services devolved to the Basque Country which prior to the entering in effect of this Law were paid to the Basque Country by transfers from the Social Security General Treasury, as provided for in the budgetary regime laid down in Royal Decrees 1.536/1987 of 6 November, 1.476/1987 of 2 October, 1.946/1996 of 23 August and 558/1998 of 2 April.

Three. Attribution of the items stipulated in the points above shall be made by applying the attribution rate referred to in article 57 herebelow.

Article 57. Attribution rates

One. The attribution rates referred to in articles 52, 55 (Two) and 56 hereabove, shall be determined basically in accordance with the income of the Historical Territories relative to that of the State.

Two. The rates shall be set out in the Quota Act and shall be applied during the validity period thereof.

Article 58. Effects on the provisional quota due to variations in transferred competences

One. If, during the annual validity period of the quota, set in accordance with the preceding rules, the Autonomous Community of the Basque Country assumes competences whose annual cost at State level had been included in the charges of the State used as the basis for determining the provisional amount of the quota, said annual cost shall be reduced proportionally to the portion of the year during which the Basque Country has assumed said competences, with the quota being reduced accordingly.

The aforesaid proportional reduction shall take into account the actual periodicity of operating costs, as well as the actual extent to which the State's investments have been undertaken.

Two. The same procedure would be followed if the Autonomous Community stopped exercising competences already assumed at the time of setting the provisional quota, increasing the latter by the appropriate amount.

Article 59. Provisional and final settlements

The quota and the appropriate compensations shall be set initially and provisionally using for this purpose the figures contained in the State Budget passed for the year in question.

Once the accounting year has ended and the State Budget has been settled, any necessary corrections shall be made to the amounts referred to in articles 52, 55 and 56 of the present Economic Agreement.

The positive or negative differences resulting from said corrections shall be added algebraically to the provisional quota for the year subsequent to that in which the corrections were made.

Article 60. Payment of the quota

The amount payable by the Autonomous Community of the Basque Country shall be paid to the State Treasury in three identical instalments, during the months of May, September and December of each year.

CHAPTER III. ECONOMIC AGREEMENT COMMITTEES AND BOARD OF ARBITRATION

SECTION 1 JOINT COMMITTEE ON THE ECONOMIC AGREEMENT

Article 61. Composition and agreements

The Joint Committee on the Economic Agreement shall be made up of one representative from each Territorial Government plus the same number from the Basque Government, on the one hand, and on the other, by the same number of representatives from the Administration of the State.

The agreements of the Joint Economic Agreement Committee must be adopted unanimously by all of its members.

Article 62. Functions

The Joint Committee on the Economic Agreement shall exercise the following functions:

- a) Agree on modifications to the Economic Agreement.
- b) Agree on coordination and cooperation commitments in matters of budgetary stability.
- c) Agree on the methodology to be used in setting the quota for each five-year period.
- d) Agree on the system and appointment of the Members of the Board of Arbitration described in Section 3 of this Chapter, and on operations, summons to and details of meetings, and the system for adopting agreements.

- e) Any and all agreements involving matters of tax and finance deemed necessary at any given time for the correct application and development of the provisions contained in the present Economic Agreement.

SECTION 2

COORDINATION AND EVALUATION COMMITTEE

Article 63. Composition

The Coordination and Evaluation Committee shall be made up of:

- a) Four representatives of the Administration of the State.
- b) Four representatives of the Autonomous Community appointed by the Basque Government, three of which shall be at the proposal of each of the respective Territorial Governments.

Article 64. Functions

The Coordination and Evaluation Committee shall exercise the following functions:

- a) Evaluate the adaptation of the tax legislation to the Economic Agreement prior to the publication thereof.

For this purpose, if as a result of the exchange of information on draft bills specified in article 4, paragraph One of the present Economic Agreement, observations should arise relative to the proposals contained therein, any of the Institutions and Administrations represented may request, in writing and with good cause, the Committee to assemble. The Committee shall then convene within fifteen days from the date of request to analyse the appropriateness of the proposed regulation for the Economic Agreement and shall make all efforts, prior to the publication of the corresponding regulations, to see that the Institutions and Administrations represented reach an agreement on any discrepancies in the tax legislation.

- b) Resolve any concerns put forward on the application of points of connection laid down in the present Economic Agreement. Concerns shall be transferred for their analysis, together with a proposed resolution, within two months from reception thereof, to the rest of the Administrations concerned. If no observations are formulated on the proposal for resolution in two months' time, said proposal shall be deemed approved. If observations are submitted, the Coordination and Evaluation Committee shall convene; if an agreement is not reached, the decision will then be transferred to the Board of Arbitration.
- c) Make whatever studies they deem necessary for the adequate structural and functional organisation of the autonomous regime within the fiscal framework of the State.
- d) Provide the competent Administrations with uniform action criteria, computer plans and programmes, and to organise the instruments, resources, procedures or methods for the effective materialisation of cooperation principles and information exchange.
- e) Analyse the cases and questions that have arisen over inspection matters between the Administration of the State and the respective Territorial Governments, and to examine valuation problems for tax purposes.
- f) Issue reports requested by the Spanish Ministry of Finance, the different Finance Departments of the Basque Government and the Territorial Governments, and the Board of Arbitration.
- g) Any other functions related, in particular, to the application and execution of the present Economic Agreement.

SECTION 3 **BOARD OF ARBITRATION**

Article 65. Composition

One. The Board of Arbitration is made up of three members appointed and formalised by the Spanish Minister of Finance and the Basque Minister of Finance and Public Administration.

Two. The arbitrators are appointed for a period of six months and may not be re-elected unless they have served on the Board for less than three years.

Three. Should there be a vacancy it shall be filled according to the same procedure as for appointments. The new member shall serve for the amount of time the substituted person had remaining to fulfil his or her term.

Four. Members of the Board of Arbitration shall be appointed by experts of renown prestige with over fifteen years of professional experience in tax and finance matters.

Article 66. Functions

One. The Board of Arbitrators shall exercise the following functions:

- a) Resolve all disputes arising between the Administration of the State and the Territorial Governments of the Historical Territories, or between the latter and the Administration of any other Autonomous Community, over the application of the points of connection for the taxes transferred hereunder and over the determination of the proportion corresponding to each Administration in cases of joint filing of Corporation Tax or Value Added Tax returns.
- b) Hear disputes arising between the interested Administrations over the interpretation and application of the present Economic Agreement in specific cases concerning individual tax relations.
- c) Resolve any disputes that may arise over the domicile of taxpayers.

Two. In disputes over competence, the Administrations affected shall inform the interested parties, implying the abeyance of prescription, and shall refrain from taking any other action.

Conflicts shall be resolved by regulatory procedure and interested parties shall be given due hearing.

Article 67. Agreements of the Board of Arbitrators

The Board of Arbitration shall resolve, according to law and to the principles of economy, celerity and efficiency, all matters affecting the proceedings, whether or not they are presented by the parties involved in the conflict, including formulas for enforcement.

The resolutions of this Board of Arbitration shall, without prejudice to their executive nature, be subject only to appeals raised through judicial review to the relevant chamber of the High Court.

ADDITIONAL PROVISIONS

First

Until the provisions necessary for the application of this Economic Agreement are enacted by the competent Institutions of the Historical Territories, the regulations in force in the common tax system shall be applied, which, in all cases, shall have the character of supplementary law.

Second

One. Any amendments to this Economic Agreement shall be made by the same procedure followed for its enactment.

Two. In the event of a reform of the State tax legal system affecting the taxes object of agreement, or an alteration in the distribution of the regulatory competences affecting the scope of indirect taxation, or new tax figures or payments on account, both Administrations shall by mutual agreement proceed to adapt the present Economic Agreement to any modifications made in the aforementioned legal system.

The corresponding adaptation of the Economic Agreement shall specify the financial effects thereof.

Third

The Territorial Governments of the Historical Territories of Alava, Guipúzcoa and Vizcaya shall have the powers which in economic and administrative matters were recognised in article 15 of the Royal Decree of December 13, 1906 and which, by virtue of the general updating process of the traditional Basque regime envisaged in the First Additional Provision of the Spanish Constitution, are considered to subsist, without prejudice to the basic legislation to which reference is made in article 149.1.18 of the Spanish Constitution.

Fourth

The State and the Autonomous Community may agree on the joint financing of investments to be undertaken in the Basque Country and which, due to their cost, strategic value, general interest, impact on territories other than the Basque Autonomous Community, or due to other special circumstances, make such means of financing advisable.

Similarly, the State and the Autonomous Community may agree on the participation of the latter in the financing of investments which, having the characteristics referred to in the previous paragraph, are undertaken in territories other than that of the Community.

In both cases, the contributions made shall affect the Economic Agreement as agreed in each case.

Fifth

For the administration, inspection, revision and collection of the taxes transferred hereunder, the competent Institutions of the Historical Territories shall enjoy the same powers and prerogatives as those enjoyed by the State Treasury.

Sixth

The turnover figure referred to in articles 14, 15, 19 and 27 of the present Economic Agreement shall be updated, by resolution of the Joint Committee on the Economic Agreement, at least every five years.

TRANSITIONAL PROVISIONS

First

The determinant turnover figure set forth in the present Economic Agreement shall apply to fiscal years as of January 1st 2002.

Second

Taxes accrued prior to the entry into force of the present Economic Agreement shall be governed by the points of connection in force at the time of their accrual.

The same rule shall apply to withholdings, payments on account and payments in instalments when the accrual of the obligation to withhold, pay on account or make an instalment payment has taken place prior to the entry into force of the present Economic Agreement.

Procedures not finalised prior to the entry into force of the present Economic Agreement shall be governed by the regulations in force at the time of their initiation.

Third

Notwithstanding the provisions contained in the transitional provision here-above, the bodies laid down in Chapter III of the present Economic Agreement shall have knowledge, in accordance with the procedures and powers attributed thereto, of all of the cases pending decision between the two Administrations at the time of its entry into force.

Fourth

Moreover, a Joint Committee with equal numbers of representatives from the State Treasury and from the Government of the Historical Territory of Alava shall determine the compensation to be paid to the Government of this Historical Territory for as long as the latter continues to exercise competences and render services not assumed by the Autonomous Community of the Basque Country, and

which in provinces under the common regime correspond to the State, as well as the rules for the annual revision of this compensation on the basis of the schedule for the transfer of competences to the Basque Country.

The determination and application of these compensations shall not affect the rules for determining the quota laid down in this Agreement, although they shall be made effective through reduction of the quota figure corresponding to Alava by virtue of article 41.2.e) of the Statute of Autonomy.

Fifth

The tax system applicable to economic interest groupings and joint ventures constituted prior to the entry into force of the present Economic Agreement shall be that of the Basque Country when said groupings do not exceed the territorial scope thereof.

Sixth

Tax groups which prior to January 1st 2002 filed returns with the State or Basque Administrations under the tax consolidation system pursuant to article 25 of the present Economic Agreement, approved by virtue of Law No. 12 of May 13th 1981, may maintain said tax system until December 31st 2006, provided that they satisfy the requirements provided for in the regulations on tax consolidation in force at December 31 2001.

Seventh

As long as no amendments are made to the current system of manufacture and sale of tobacco products, the following mathematical equation shall be used as an adjustment for the Excise Duty on the Manufactured Tobacco pursuant to article 54 of the present Economic Agreement:

$$RF_{PV} = RR_{PV} + c' * RR_{TC} - [(1-c') * RR_{PV}]$$

Where:

RF_{PV} = Final annual revenue for the Basque Country from Manufactured Tobacco

RF_{PV} = Real annual revenue of the Basque Country from Manufactured Tobacco

RR_{TC} = Real annual revenue of the Common Territory from Manufactured Tobacco

$$c' = \frac{\text{Manufactured Tobacco supplied to Tobacco and Stamp outlets in the Basque Country}}{\text{Manufactured Tobacco supplied to Tobacco and Stamp outlets in the territory of application of the Excise duty}}$$

FINAL PROVISION

Repeals or amendments, as the case may be, of the Economic Agreement rules applicable to the different taxes shall be understood without prejudice to the right of the respective Administrations to claim, pursuant to the points of connection previously in effect, any tax liabilities due prior to that date.

FIVE-YEAR QUOTA ACT 2002-2006

CHAPTER I. LEGAL REGIME AND VALIDITY OF THE METHOD

Article 1. Legal regime and validity of the method

The quotas for the Basque Country for the fiscal years 2002 to 2006 inclusive will be determined by the method regulated by the following articles. This method adheres to the regulatory scheme laid down in Section 2, Chapter II of the Economic Agreement with the Autonomous Community of the Basque Country approved by Law XX/2002.

Article 2. System

For the purposes of the provisions of the previous article, the net quota for the base year of the five year period shall be determined. This figure shall be updated for the subsequent years.

CHAPTER II. DETERMINATION OF THE NET QUOTA FOR THE BASE YEAR

Article 3. Determination of the net quota for the base year

The net quota for the base year of the five year period from 2002 to 2006 shall be determined by applying the attribution rate to the total amount of the charges

not assumed by the Autonomous Community and by making the relevant adjustments and compensations, all as provided for in the terms of the following articles.

Article 4. Charges of the State not assumed by the Autonomous Community

One. Charges of the State not assumed by the Autonomous Community are those which correspond to competences which have not been actually assumed by the latter.

Two. To determine the total amount of said charges, the entire State Budget allocation corresponding to the competences assumed by the Autonomous Community as of the entry into effect of the transfers established in the corresponding Royal Decrees shall be deducted from the total State Budget expenditures.

Three. Among others, the following shall be considered charges not assumed by the Autonomous Community:

- a) The sums allocated in the General State Budget to the Inter-territorial Compensation Fund.
- b) Transfers or subsidies granted by the State to public entities, provided that the competences exercised thereby have not been assumed by the Autonomous Community of the Basque Country.
- c) The interest payments and repayments of principal on all State debts.

Four. Attribution to the different Historical Territories of their share of non-assumed charges shall be made by applying the attribution rate referred to in Article 7 herebelow.

Article 5. Adjustments

One. Without prejudice to the provisions of Articles 14 and 15 herebelow, the figures resulting from the attribution referred to in point four of the preceding article shall be adjusted to improve the accuracy of the estimated income from di-

rect tax attributable to the Basque Country and to the rest of the State pursuant to article 55 of the Economic Agreement.

Two. The amounts resulting from application of the adjustment regulated by point one above shall constitute the quota for each Historical Territory.

Article 6. Compensations

One. From the quota corresponding to each Historical Territory the following items shall be subtracted for compensation purposes:

- a) The attributable portion of non-transferred taxes.
- b) The attributable portion of budgetary income not from taxes.
- c) The attributable portion of the deficit figuring in the General State Budget.

Two. Also subject to compensation of the quota corresponding to each Historical Territory is the portion attributable to the Basque Country for revenues utilised in the financing of Social Security functions and services related to health and social services devolved to the Basque Country which prior to the entering in effect of this Act were paid to the Basque Country by transfers from the Social Security General Treasury, as provided for in the budgetary regime laid down in Royal Decrees 1.536/1987 of 6 November, 1.476/1987 of 2 October, 1.946/1996 of 23 August and 558/1998 of 2 April.

Three. Attribution of the items stipulated in the points above shall be made by applying the attribution rate referred to in article 7 herebelow.

Article 7. Attribution rate

The attribution rate referred to in articles 4 and 6 hereabove, set basically in accordance with the income of the Historical Territories relative to that of the State, is 6.24 per cent for the current five year period.

Article 8. Net quota

The sum resulting from the adjustment performed as per article 5 and the compensations stipulated in article 6 (One) hereabove shall constitute the net quota for the Basque Country for tax year 2002, which is the base year of the five year period.

After the net quota is determined, the sum of compensations as per in article 6 (Two) hereabove, and the amount resulting from the application of the Fourth Transitional Provision of the Economic Agreement shall be subtracted.

CHAPTER III. DETERMINATION OF THE NET QUOTA FOR THE SUBSEQUENT YEARS OF THE FIVE YEAR PERIOD AND FINAL SETTLEMENT OF THE QUOTAS

Article 9. Method of determination

The net quota for the subsequent years after the base year of the five year period shall be determined provisionally by applying an updating index to the net quota.

In the years following the base year compensation shall be performed according to article 6 (Two) of this Act.

Article 10. Updating index

The updating index is the quotient between expected revenues from taxes covered by the Economic Agreement, excluding those that may be transferred to the Autonomous Communities, as stated in Chapters I and II of the State Budget for the tax year to which the net quota refers and the duly adjusted revenues expected by the State for the same tax items in the base year of the five year period.

Article 11. Effects of variations in the competences assumed

One. If during any of the years following the base year of the five year period the Autonomous Community of the Basque Country assumes further competences whose annual cost at State level had been included in the charges of the State used as the basis for determining the net Quota for the base year of the five year period as per article 8, said annual cost at State level associated with the transfer in the year in which the transfer takes place shall be calculated as deduced from the General State Budget for the year in question.

Should the new transfer not take effect on January 1st, the total annual cost at State level associated with the transfer for the year in question shall be considered on a prorata basis in proportion to the portion of the year during which the Basque Country has enjoyed said competences, with effect exclusively for the determination of the net Quota for the year in which the transfer takes place.

The aforesaid proportional reduction shall take into account the actual periodicity of operating costs, as well as the actual extent to which the State's investments have been undertaken.

Two. If the circumstance indicated in the preceding paragraph arises, the net quota for the base year of the five year period shall be reduced by the amount resulting from the application of the attribution rate regulated by article 7 to the total annual cost at State level in the year of the transfer divided by the updating index regulated by article 10.

The net quota for the base year of the five year period thus revised shall be used to determine the quota for the year in which the transfer takes place and for the subsequent years.

Three. The mechanism described above shall be applied inversely if the Autonomous Community of the Basque Country ceases to exercise competences which it had previously assumed.

Article 12. Final settlement

One. The provisionally set quotas, as provided for in the articles hereabove, shall be settled definitively by applying the actual value of the updating index

described in article 10, and inferred from the net revenue actually obtained by the State both in the year to which the quota refers and its equivalent in the base year of the five year period, to the final net quota for the base year.

Definitive settlement of compensation shall be performed according to article 6 (Two) of this Act.

Two. Exceptionally, the final settlement of the net quota for the base year of the five year period shall be made taking into account the actual value of the updating index described in article 10, which is inferred from the net revenue actually obtained by the State in the base year of the five year period, with respect to the equivalent revenue forecast shown in the State Budget for that year.

Definitive settlement of the compensation for the base year of the five year period shall be performed according to article 6 (Two) of this Act.

Three. The net revenue obtained by the State in each tax year shall be that stated in the certificate issued by the General Audit Inspectorate of the State Administration to this effect. As such shall be taken the revenue obtained in the year to which the certificate refers, whatever the year of accrual.

Four. Final settlement shall be made in May of the year following the year to which the net quota to be settled refers, and any differences with the net quota set provisionally for the said year shall be regularised in that month, being calculated, as the case may be, with the payment to be made in that month as provided for in the following article.

CHAPTER IV. COMMON RULES

Article 13. Payment of the quota

The sum to be paid by the Autonomous Community of the Basque Country in each tax year shall be paid to the State Revenue Department. in three equal instalments in the months of May, September and December of the year in question.

Article 14. Adjustment for value added tax

One. The following shall be added to the actual revenues of the Basque Country from value added tax:

- a) 6.875 per cent of the value added tax revenues from customs duties.

- b) 1.110 per cent of the actual tax revenues of the common territory divided by 94.235 per cent, or of the actual tax revenues of the Basque Country divided by 5.765 per cent, according to whether the percentage of tax revenues of the Basque Country, with respect to the State total, minus the revenue obtained through customs, is greater or less, respectively, than 5.765 per cent.

Two. The provisional attribution of the aforesaid adjustment and the definitive regularisation thereof in the immediately subsequent year shall be carried out in accordance with the procedure in force at the time and approved by the Joint Quota Committee.

Article 15. Adjustment for excise duties

One. The following shall be added to the actual revenue of the Basque Country from excise duties on alcohol and alcoholic beverages, intermediate products, beer, mineral oils and manufactured tobacco:

- a) First. 7.130 per cent of the revenues from duties on alcohol and alcoholic beverages, and on intermediate products from customs duties.

Second. 5.198 per cent of the actual revenue from the duty on alcohol and alcoholic beverages and on intermediate products of the common territory divided by 98.068 per cent, or the actual revenue of the Basque Country from the same excise duty divided by 1.932 per cent, according to whether the percentage of revenue of the Basque Country with respect to the State total, less the amount from customs duties, is greater or less, respectively, than 1.932 per cent.

- b) First. 7.130 per cent of the revenues from customs duty on beer.
- Second. 5.399 per cent of the actual revenue from the excise duty on beer of the common territory divided by 98.269 per cent, or the actual revenue of the Basque Country from the same excise duty divided by 1.731 per cent, according to whether the percentage of revenue of the Basque Country with respect to the State total, less the amount from customs duties, is greater or less, respectively, than 1.731 per cent.
- c) First. 6.560 per cent of the revenues from customs duty on mineral oils.
- Second. When negative, 1.700 per cent of the actual revenue from the excise duty on mineral oils of the common territory divided by 91.740 per cent, or the actual revenue of the Basque Country from the same Excise Duty divided by 8.260 per cent, according to whether the percentage of revenue of the Basque Country with respect to the State total, minus the revenue obtained by Customs, is greater or less, respectively, than 8.260 per cent.
- d) The difference between the result of applying to the common territory's actual revenue from the excise duty on manufactured tobacco the percentage corresponding annually to the value of the products supplied to the tobacco and stamp outlets located in the Basque Country with respect to the value of the products supplied to said establishments in the territory where the excise duty is applied, and the result of applying a supplement up to a hundred of the percentage defined above to the actual revenue from the same excise duty in the Basque Country.

Two. Should the actual revenue obtained by the Basque Country differ by more than 7 per cent for the excise duty on mineral oils, or by more than 10 per cent for the excise duty on alcohol and alcoholic beverages, intermediate products and beer from the figure resulting from the application of the rates indicated in the last part of sub-sections a)2, b)2 and c)2 of point one of this article, to the actual revenue of the State as a whole for the said items, those rates shall be corrected to carry out adjustments for the year in which such differences arise.

This correction shall be made by applying the percentage of variation, be it pos-

itive or negative, above the limits set in the preceding paragraph, to the corresponding rates referred to in the last part of sub-sections a)2, b)2 and c)2 of point one above.

Three. The provisional attribution of the aforesaid adjustment for each of the excise duties and the definitive regularisation thereof in the immediately subsequent year shall be carried out in accordance with the procedure in force at the time and approved by the Joint Quota Committee.

ADDITIONAL PROVISIONS

First

The First Additional Provision laid down in Law 37/97 of 4 August shall remain in force for the five year period 2002-2006.

Second

The provisional net quota for the Basque Country for 2002 indicated in Appendix I to the present document is approved.

Third

In the event of a reform of the State tax legal system affecting the taxes object of agreement, or an alteration in the distribution of the regulatory competences affecting the scope of indirect taxation, or new tax figures or payments on account, both Administrations shall by mutual agreement, proceed to adapt the net quota for the base year of the five year period and the updating index in such a way and to such an amount as may be pertinent. Such adaptations shall take effect as from the year in which the reform is made.

Both Administrations shall, as the case may be, make the pertinent adjustments or compensations, given the nature of the tax figure object of the agreement.

Fourth

In the event of any modification in the present regime of manufacturing and trading of tobacco products, both Administrations shall, by mutual agreement, proceed to revise point d) of article 15, sub-section One.

Fifth

The cost of the Autonomous Police Force included as an assumed charge in the quota for the base year 2002 corresponds to the value attributed to the service for 2002. Accordingly, from the time this Act enters into force, it shall receive the same treatment as the rest of the assumed charges.

The cost for the Autonomous Police Force set forth in Appendix I reflects the funding corresponding to the number of staff with active service administrative status pursuant to the deployment agreements adopted prior to January 1st 2002.

The Joint Economic Agreement Committee shall agree on the funding for any increase in the current staff of the Autonomous Police Force.

Sixth

For the purposes of this Act the agreements adopted by the Joint Quota Committee referred to in article 49 of the Economic Agreement approved by Law No. 12 of 13 May 1981 shall be considered adopted and ratified by the Joint Economic Agreement Committee referred to in article 61 of the Economic Agreement approved by Act XX/2002 of ____ ____.

Seventh

With effect from the entry into force this Act the financing of Social Security functions and services related to health and social services devolved to the Basque Country shall receive the same treatment as the rest of the assumed charges. Therefore, the budgetary regime laid down in Royal Decrees 1.536/1987 of 6 November, 1.476/1987 of 2 October, 1.946/1996 of 23 August and

558/1998 of 2 April shall be understood to be adapted to the stipulations laid down in the present Act.

FINAL PROVISIONS

First

Exceptionally, should the term of this Act elapse without a new law being enacted to regulate the method for determining the quota for the following years, the method laid down in this Act shall apply in all its terms for the provisional determination of the net quotas and the compensations referred to in article 6 (Two) of this Act and in the Fourth Transitional Provision of the Economic Agreement for the year 2007 and subsequent years.

The quotas and compensations thus determined shall be replaced by those applicable under the law indicated in the previous paragraph once it is enacted.

Second

The provisions of this document are understood to be without prejudice to the regulations contained in the additional, transitional and final provisions of the Economic Agreement with the Basque Country, which remain in force insofar as they are applicable on their own terms.

APPENDIX I

PROVISIONAL QUOTA FOR THE AUTONOMOUS COMMUNITY OF THE BASQUE COUNTRY FOR BASE YEAR 2002

		(Thousands of euros)
State Budget Expenditure		144,104,165.08
Charges assumed by the Autonomous Community (1)		77,411,615.88
Total non assumed charges		66,692,549.20
Application of the attribution rate to non assumed charges:		
6.24 % of 66,692,549.20		4,161,615.07
Compensation and adjustments to be deducted		
For taxes not covered by the Economic Agreement (3,097,191.36 at 6.24 %)	-193,264.74	
For other non tax income (8,718,927.49 at 6.24 %)	-544,061.08	
For budget deficit (32,916,367.94 at 6.24 %)	-2,053,981.36	
For direct taxes covered by the Economic Agreement	-279,643.41	
		-3,070,950.59
Net quota		1,090,664.48
Compensations Article 6 (Two) of the Quota Act		-53,042.35
Alava Compensations: Transitory Provision 4 of the Economic Agreement		-2,996.05
Net amount to be paid		1,034,626.08

(1) This figure includes an assumed charge on the State level for the Autonomous Police Force of 6,172,355.79 thousand euros.