



Malta-EU Steering & Action Committee

COMPETITIVENESS AND CONSUMER AFFAIRS

Sectoral Committee
Weekly Update
14.05.10

Contents

Anti – Dumping – Pg2

Switzerland – Pg 2

TAX: Commission takes Belgium, Finland and France to Court and issues Reasoned Opinion to Spain - Pg 3





Malta-EU Steering & Action Committee

COM (2010) 222 - Proposal for a COUNCIL REGULATION imposing a definitive anti-dumping duty on imports of sodium cyclamate originating in the People's Republic of China and Indonesia following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009

This proposal concerns the application of Council Regulation No 1225/2009 on protection against dumped imports from countries not members of the European Community in this case concerning imports of Sodium Cyclamate originating from China and Indonesia.

A request was lodged by Productos Aditivos S.A. ("the applicant"), the sole producer in the EU representing 100 % of the Union production of the product concerned. The Commission conducted an investigation which showed that there is a likelihood of continuation or recurrence of dumping and injury and it is therefore proposed to impose anti-dumping measures for a further period of five years.

Thus, the Commission is proposing that the Council adopts the attached proposal for a Regulation.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0222:FIN:EN:PDF>

COM (2010) 223 - Proposal for a COUNCIL DECISION On the Union position regarding the amendment of the annexes of the Agreement between the European Community and the Swiss Confederation on certain aspects of government procurement

The Agreement between the European Community and Switzerland on certain aspects of government procurement seeks to secure reciprocal, transparent and non-discriminatory access of the suppliers and service providers of both parties to purchases by specific entities in the utilities sectors. The Agreement complements the commitments that the EC and Switzerland have undertaken in the framework of the WTO Agreement on Government Procurement.

The Annexes to the Agreement need to be amended:



Malta-EU Steering & Action Committee

- to take into account of the progressive liberalisation of the telecommunication markets and the introduction of competition in the European Union and Switzerland. It is therefore desirable to specify in Annex I to the Agreement that telecommunications operators are no longer covered by the Agreement.
- to include the last two enlargements of the European Union.
- in view of Commission decision of 9 December 2008 amending the Annexes to Directives 2004/17/EC and 2004/18/EC on public procurement procedures, as regards their lists of contracting entities and contracting authorities.

Adoption of this proposal allows the Joint Committee to amend the annexes to the Agreement to these developments.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0223:FIN:EN:PDF>

TAX: Commission refers Belgium, Finland and France to the Court of Justice of the EU and sends a reasoned opinion to Spain

The Commission has referred Belgium, Finland and France to the Court of Justice over their failure to comply with previous formal requests to amend various tax provisions. The Commission also formally requested that Spain amend its inheritance and gift tax regime.

Belgian tax exemption on interests

The Commission has decided to refer Belgium to the Court of Justice over measures which allow tax exemptions for interest paid by domestic banks, but not for interest paid by foreign banks. The interest that Belgian residents receive on their savings is subject to different tax treatment depending on whether it is paid by a domestic bank or a foreign bank. Only interest paid by a domestic bank can benefit from a tax exemption. Thus, only Belgian residents who have a savings deposit account with a Belgian bank can benefit from the tax advantage. The Commission considers that the Belgian provisions restrict the free movement of capital and the freedom to provide services.



Malta-EU Steering & Action Committee

Finnish withholding tax on dividends

Finland is also being referred to the Court of Justice because of its failure to comply with a Reasoned Opinion on its legislation which discriminates against foreign pension funds. Dividends paid to a non-resident pension fund by a foreign company based in Finland for tax purposes, are subject to a withholding tax on gross income at a rate of 19,5%. Finnish pension funds, on the other hand, are taxed under a special regime: there is no withholding tax, but 75% of dividend income is subject to corporation tax. Since the nominal corporate income tax rate is 26%, the resulting tax rate for dividends paid to Finnish pension funds is 19,5%. However, tax is calculated on their net income, i.e. after deduction of costs as well as current pension liabilities. In practice therefore, the effective tax rate on dividend income paid to a Finnish pension fund is lower than 19,5%.

French tax representative regime

France has a reverse-charge system whereby the client is designated as liable to pay VAT if the supplier or vendor is not established in the country. This is in line with EU rules. However, by derogation from this system, the vendor is allowed to declare in his own tax statement the tax owed by his clients, in principle as reverse-charged, and to offset this from his own due VAT. To be able to do this, a non-established vendor must register for VAT in France and designate a tax representative ('répondant fiscal') to declare and pay the VAT on his behalf. This is incompatible with the VAT Directive which provides that taxable persons established in the EU and certain third countries should not have to designate a tax representative for VAT in another Member State. As France has failed to comply with the Reasoned Opinion issued by the Commission, the matter is being referred to the Court of Justice.

Spanish inheritance and gift tax

The European Commission has requested Spain, by means of a Reasoned Opinion, to amend its tax provisions on inheritance and gift tax, which impose a higher tax burden on non-residents or assets held abroad. The provisions are incompatible with the free movement of workers and capital. Spain has 2 months to react to this Reasoned Opinion.