



Malta-EU Steering & Action Committee

## COMPETITIVENESS AND CONSUMER AFFAIRS

Sectoral Committee  
Weekly Update  
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**COM (2010) 111** - Proposal for a COUNCIL IMPLEMENTING DECISION authorising the Federal Republic of Germany and the Grand Duchy of Luxembourg to apply a measure derogating from Article 5 of Directive 2006/112/EC on the common system of value added tax

Article 395 of the VAT Directive states that the Council may, acting unanimously on a proposal from the Commission, authorise any Member State to apply special measures to derogate from the provisions of that Directive, in order to simplify the procedure for collecting VAT or to prevent certain forms of tax evasion or avoidance.



Germany and Luxembourg decided, in order to facilitate road transport between their territories, to adopt an agreement to link up German Bundesstrasse B 419 and the Luxembourg N1 highway between Wellen and Grevenmacher and, to renovate an existing border bridge over the Mosel on the German and Luxembourg sides. This border bridge extends from the territory of Germany to the territory of Luxembourg over the Mosel which flows through the jointly managed territory.

Under the agreement, the border bridge building site and the bridge itself would be considered as the territory of Luxembourg for the purposes of VAT as regards the supplies of goods and services and intra-Community acquisitions of goods in relation to the renovation and the subsequent maintenance of this border bridge.

Under the normal rules, the principle of territoriality laid down in Article 5 of the VAT Directive would require that German VAT would be charged on the renovation and maintenance carried out in Germany. Likewise, renovation and maintenance carried out on the Luxembourg territory would be subject to Luxembourg VAT. Applying the normal rules would imply establishing the exact place of taxable transactions according to the territory in which each part of the works was carried out. In addition, work carried out in relation to the jointly managed territory could not unilaterally be taxed.

Germany and Luxembourg consider that applying the normal rules would create tax complications for the businesses responsible for the work in question and



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that the tax provisions in the agreement are justified in order to simplify the business' tax responsibilities.

The Commission accepts that in these cases, uniform taxation of the renovation and the maintenance works will represent a simplification which will make it easier for the businesses concerned to apply the tax rules than would be the case if the normal tax rules were applied, and hence is proposing that the Council adopt this proposed Decision so as to authorise Germany and Luxembourg to derogate from Article 5 of the VAT Directive.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0111:FIN:EN:PDF>

**COM (2010) 118** - Proposal for a COUNCIL DECISION on the conclusion of a voluntary partnership agreement between the European Union and the Republic of the Congo on forest law enforcement, governance and trade in timber and derived products to the European Union (FLEGT)



The Action Plan on Forest Law Enforcement, Governance and Trade (FLEGT), endorsed by the Council in 2003, proposes a set of measures that include support for timber-producing countries, to tackle trade in illegal timber, support for private-sector initiatives and also measures to discourage investment in activities that encourage illegal logging. The cornerstone of the Action Plan is the establishment of FLEGT partnerships between the

EU and timber-producing countries which are aimed at stopping illegal logging.

In June 2008 the Commission entered into negotiations to establish a partnership agreement with Congo. Negotiations have now been concluded and a final agreement can be concluded. Consequently the Commission has drafted this proposal for Council to adopt a Decision to conclude the agreement with Congo.

The agreement addresses all elements of the Council negotiating directives. These include:



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- establishing the framework, institutions and systems of the FLEGT licensing scheme
- setting out the supply chain controls
- A legal compliance framework and independent audit requirements of the system
- mechanisms for dialogue and cooperation
- principles of stakeholder participation, social safeguards and transparency,
- The monitoring of and reporting on the implementation of the Agreement.

The FLEGT licensing scheme is expected to be fully operational by mid-2011.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0118:FIN:EN:PDF>

**COM (2010) 129** - Proposal for a COUNCIL IMPLEMENTING DECISION authorising the Kingdom of the Netherlands to apply a measure derogating from Article 193 of Directive 2006/112/EC on the common system of value added tax

Article 395 of the VAT Directive states that the Council may, acting unanimously on a proposal from the Commission, authorise any Member State to apply special measures for derogation from the provisions of that Directive, in order to simplify the procedure for collecting VAT or to prevent certain forms of tax evasion or avoidance.

In a letter sent to the Secretariat-General of the Commission on 29 January 2010, the Netherlands requested authorisation to apply a derogating measure in the ready-to-wear clothing industry. The requested measure is essentially to be considered as a measure to prevent certain types of tax evasion in the ready-to-wear clothing industry. Subcontractors in the ready-to-wear clothing industry are sometimes small companies, which have often proved to be transitory businesses, difficult for the tax administration to control and vehicles for tax evasion.

The Commission, having accepted the request made by the Netherlands, is proposing that the Council adopt this Decision so as to authorise the Netherlands to apply a measure in derogation of Article 193 of the VAT



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Directive, namely a scheme for shifting the obligation to pay over the VAT to the tax authorities from the subcontractor to the clothing firm.

A final decision on whether the derogating measure should be abolished would need to be taken at a later stage, probably in 2011, and after having consulted other stakeholders such as the employment inspectorate and the body responsible for social insurance.

<http://register.consilium.europa.eu/pdf/en/10/st08/st08316.en10.pdf>

**COM (2010) 134 - REPORT FROM THE COMMISSION** On training and exchanges of officials in charge of the implementation of mutual assistance under the Services Directive (2006/123/EC)

An important and innovative part of the Services Directive concerns administrative cooperation. Competent authorities at national, regional and local level in all Member States are required to assist each other directly and across borders, in order to avoid a multiplication of controls and to ensure effective supervision of service providers.

The Internal Market Information System (IMI) supports authorities in this task. IMI is an IT-based information network developed by the Commission in close cooperation with Member States. It allows authorities to identify their counterparts in other countries and to exchange information with them in their own language using pre-translated questions and answers.

Article 34(2) of the Services Directive calls on Member States, with the assistance of the Commission, to facilitate training and exchanges of officials in charge of administrative cooperation. The overall objective of any measures to be taken on the basis of the needs assessment has to ensure that the Internal Market Information System (IMI) users have the necessary knowledge and skills to be able to use IMI effectively. For this purpose, training should be provided close to the user and as consistently as possible throughout the EU.

In this Report the Commission summarises the findings of the assessment, which was carried out on the basis of data gathered from a number of different sources, of the training and exchanges of officials in charge of the implementation of mutual assistance under the Services Directive.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0134:FIN:EN:PDF>