

COMMISSION IMPLEMENTING DECISION

of 20 April 2012

concerning the application of the control and movement provisions of Council Directive 2008/118/EC to certain additives, in accordance with Article 20(2) of Council Directive 2003/96/EC

(notified under document C(2012) 2484)

(2012/209/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity ⁽¹⁾, and in particular Article 20(2) thereof,

Whereas:

(1) Following a request made by the Authorities of the Netherlands under Article 20(2) of Directive 2003/96/EC, the Commission has adopted Commission Implementing Decision 2011/545/EU of 16 September 2011 concerning the application of the control and movement provisions of Council Directive 2008/118/EC to products falling within CN code 3811, in accordance with Article 20(2) of Council Directive 2003/96/EC ⁽²⁾. That Implementing Decision submits all products falling within CN code 3811 to the control and movement provisions of Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC ⁽³⁾.

(2) In line with the request made by the Authorities of the Netherlands, the intention of Implementing Decision 2011/545/EU is to prevent tax evasion, avoidance and abuse, by submitting to the control and movement provisions of Directive 2008/118/EC certain products intended to be used as additives for motor fuels and which, in this case, are subject to taxation in accordance with Directive 2003/96/EC.

(3) Following the adoption of Implementing Decision 2011/545/EU, the Commission's attention has been drawn to the particular position of products falling within CN codes 3811 21 00 and 3811 29 00. Those products are neither intended to be used as heating fuels or motor fuels, nor as additives thereto and do not give rise to a risk of tax evasion, avoidance or abuse. They should thus not be made subject to the

control and movement provisions of Directive 2008/118/EC. Only products falling within CN codes 3811 11 10, 3811 11 90, 3811 19 00 and 3811 90 00 should thus be made subject to those control and movement provisions.

(4) Implementing Decision 2011/545/EU should therefore be replaced by an analogous Decision, which should however be limited to CN codes 3811 11 10, 3811 11 90, 3811 19 00 and 3811 90 00.

(5) The measures provided for in this Decision are in accordance with the opinion of the Committee on Excise Duty,

HAS ADOPTED THIS DECISION:

Article 1

As from 1 January 2013, products falling within CN codes 3811 11 10, 3811 11 90, 3811 19 00 and 3811 90 00 of Annex I to Council Regulation (EEC) No 2658/87 ⁽⁴⁾ as amended by Commission Regulation (EC) No 2031/2001 ⁽⁵⁾ shall be subject to the control and movement provisions of Directive 2008/118/EC, in accordance with Article 20(2) of Directive 2003/96/EC.

Article 2

Implementing Decision 2011/545/EU is repealed.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 20 April 2012.

For the Commission

Algirdas ŠEMETA

Member of the Commission

⁽¹⁾ OJ L 283, 31.10.2003, p. 51.

⁽²⁾ OJ L 241, 17.9.2011, p. 33.

⁽³⁾ OJ L 9, 14.1.2009, p. 12.

⁽⁴⁾ OJ L 256, 7.9.1987, p. 1.

⁽⁵⁾ OJ L 279, 23.10.2001, p. 1.