

II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

DECISIONS

COUNCIL

COUNCIL DECISION

of 10 July 2007

authorising Austria to conclude an agreement with Switzerland that includes provisions derogating from Article 2(1)(d) of Directive 2006/112/EC on the common system of value added tax

(2007/485/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ⁽¹⁾, and in particular Article 396 thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) Under Article 396(1) of Directive 2006/112/EC, the Council, acting unanimously on a proposal of the Commission, may authorise any Member State to conclude with a third country an agreement which may contain derogations from that Directive.

(2) By letter registered with the Secretariat-General of the Commission on 13 September 2005, Austria requested authorisation to conclude an agreement with Switzerland in relation to a cross-border power plant across the river Inn between Prutz (Austria) and Tschlin (Switzerland).

(3) In accordance with Article 396(2) of Directive 2006/112/EC, the Commission informed the other

Member States by letter dated 1 March 2007 of the request made by Austria. By letter dated 6 March 2007, the Commission notified Austria that it had all the information it deemed necessary to consider the request.

(4) The agreement is to contain provisions on value added tax (VAT) derogating from Article 2(1)(d) of Directive 2006/112/EC in respect of goods imported into Austria in relation to the cross-border power plant. These imports of goods from Switzerland into Austria by taxable persons with a full right of deduction will not be subject to VAT in order to obtain a similar arrangement from Switzerland for goods imported from Austria into Switzerland.

(5) The derogation will therefore not have an adverse effect on the European Communities' own resources accruing from VAT,

HAS ADOPTED THIS DECISION:

Article 1

Austria is hereby authorised to conclude an Agreement with Switzerland that includes provisions derogating from the Directive 2006/112/EC covering the construction, maintenance, renewal and operation of a frontier power plant station across the river Inn between Prutz (Austria) and Tschlin (Switzerland).

The derogating VAT provisions in respect of the Agreement are set out in Article 2.

⁽¹⁾ OJ L 347, 11.12.2006, p. 1. Directive as amended by Directive 2006/138/EC (OJ L 384, 29.12.2006, p. 92).

Article 2

By way of derogation from Article 2(1)(d) of Directive 2006/112/EC, goods imported by taxable persons with a full right of deduction from Switzerland into Austria shall not be subject to VAT, provided they are used for the construction, maintenance, renewal and operation of the frontier power plant referred to in Article 1.

Article 3

This Decision is addressed to the Republic of Austria.

Done at Brussels, 10 July 2007.

For the Council
The President
F. TEIXEIRA DOS SANTOS
