

**COUNCIL IMPLEMENTING DECISION****of 14 May 2013****authorising the Czech Republic and the Republic of Poland to apply special measures derogating from Article 5 of Directive 2006/112/EC on the common system of value added tax**

(2013/237/EU)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax <sup>(1)</sup>, and in particular Article 395(1) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) By letters from the Czech Republic registered with the Commission on 26 September 2011 and 5 November 2012, and by letter from the Republic of Poland registered with the Commission on 8 June 2012, the Czech Republic and the Republic of Poland requested authorisation to apply special measures derogating from Article 5 of Directive 2006/112/EC in relation to the construction and maintenance of border bridges and common road sections between the two Member States.

(2) In accordance with Article 395(2) of Directive 2006/112/EC, the Commission informed the other Member States, by letter dated 5 December 2012, of the requests made by the Czech Republic and by the Republic of Poland. By letter dated 10 December 2012, the Commission notified the Czech Republic and the Republic of Poland that it had all the information necessary to consider the requests.

(3) With respect to the supply of goods or services and intra-Community acquisition of goods intended for the maintenance of border bridges and common road sections listed in Annex I and for the construction and subsequent maintenance of border bridges listed in Annex II, the bridges and common road sections, as well as their construction sites, should be regarded as being entirely within the territory either of the Czech Republic or of the Republic of Poland in accordance with an agreement to be concluded between them on

the construction and maintenance of bridges and maintenance of common road sections on the Czech-Polish State border. In the absence of special measures, it would be necessary, for each supply of goods or services and intra-Community acquisition of goods, to determine whether the place of taxation is the Czech Republic or the Republic of Poland. Work at a border bridge and common road section carried out within the territory of the Czech Republic would be subject to value added tax (VAT) in the Czech Republic while that carried out within the Republic of Poland's territory would be subject to VAT in the Republic of Poland.

(4) The purpose of the request for the derogation from Article 5 of Directive 2006/112/EC is therefore to simplify the procedure for collecting VAT with respect to the construction and maintenance of the border bridges and of common road sections of the two Member States.

(5) The derogation could affect the overall amount of the tax revenue of the Member States collected at the stage of final consumption only to a negligible extent and has no negative impact on the Union's own resources accruing from value added tax.

HAS ADOPTED THIS DECISION:

*Article 1*

1. Subject to the entry into force of an agreement to be concluded between the Czech Republic and the Republic of Poland on the maintenance of bridges and common road sections on the Czech-Polish State border, as referred to in Annex I to this Decision, and on the construction and subsequent maintenance of bridges on the Czech-Polish State border, as referred to in Annex II to this Decision, the Czech Republic and the Republic of Poland are hereby authorised to apply, in accordance with Articles 2 and 3, measures derogating from Article 5 of Directive 2006/112/EC in relation to the construction and maintenance of those border bridges and common road sections, all of which are partly within the territory of the Czech Republic and partly within the territory of the Republic of Poland.

2. This authorisation shall also apply to any additional bridges and common road sections which are brought within the scope of the agreement referred to in paragraph 1 by an exchange of diplomatic notes. The VAT Committee, established under Article 398 of Directive 2006/112/EC shall be notified thereof.

<sup>(1)</sup> OJ L 347, 11.12.2006, p. 1.

*Article 2*

By way of derogation from Article 5 of Directive 2006/112/EC, the border bridges and common road sections for the construction or maintenance of which the Czech Republic is responsible, and, where appropriate, the corresponding construction site, in so far as they are within the Republic of Poland's territory, shall be deemed to be part of the territory of the Czech Republic for the purposes of the supply of goods and services and intra-Community acquisition of goods intended for the construction or maintenance of those bridges and common road sections.

*Article 3*

By way of derogation from Article 5 of Directive 2006/112/EC, the border bridges and common road sections for the construction or maintenance of which the Republic of Poland is responsible, and, where appropriate, the corresponding construction site, in so far as they are within the territory of the Czech Republic, shall be deemed to be part of the Republic

of Poland's territory for the purposes of the supply of goods and services and intra-Community acquisition of goods intended for the construction or maintenance of those bridges and common road sections.

*Article 4*

This Decision shall take effect on the day of its notification.

*Article 5*

This Decision is addressed to the Czech Republic and to the Republic of Poland.

Done at Brussels, 14 May 2013.

*For the Council*

*The President*

M. NOONAN

## ANNEX I

**The Czech Republic shall be responsible for the maintenance of the following bridges and common road sections on the Czech-Polish State border:**

- (1) the bridge over the Olecka Potok stream (Oleška) between Jasnowice and Bukovec, on border section I between boundary markers 12/6 and I/13,
- (2) the bridge (Wolności/Svobody) over the Olza (Olše) River between Cieszyn and Český Těšín, on border section I between boundary markers I/86 and 86/1,
- (3) the bridge (Przyjaźni/Družby) over the Olza (Olše) River between Cieszyn and Český Těšín, on border section I between boundary markers 87/2 and I/88,
- (4) the bridge over the Piotrówka Potok stream (Petrůvka) between Gołkowice and Závada, on border section I between boundary markers I/156 and 156/1,
- (5) the bridge over the Odra (Oder) River between Chałupki and Bohumín (concrete section of an old bridge), on border section II between boundary markers 7/4 and 7/5,
- (6) the bridge over the Odra (Oder) River between Chałupki and Bohumín (a new bridge), on border section II between boundary markers 8/1 and 8/2,
- (7) the bridge over the Opawa (Opava) River between Wiechowice and Vávrovice, on border section II between boundary markers 71/4 and II/72,
- (8) the bridge over the Opawa (Opava) River between Dzierzkowice and Držkovce, on border section II between boundary markers 74/1 and 74/2,
- (9) the bridge over the Opawa (Opava) River between Branice and Úvalno, on border section II between boundary markers 85/4 and 85/5,
- (10) the bridge over the Opawica (Opavice) River between Krasne Pole and the Krásné Loučky district of the town of Krnov, on border section II between boundary markers 97/11 and II/98,
- (11) the bridge over the Opawica (Opavice) River between Lenarcice and Linhartovy, on border section II between boundary markers 99/8 and 99/9,
- (12) the bridge over the Olešnica Potok stream (Olešnice) between Podlesie and Ondřejovice (by the sports field), on border section II between boundary markers 155/3a and 155/3b,
- (13) the bridge over the Olešnica Potok stream (Olešnice) between Podlesie and Ondřejovice (at the junction with the road to Rejvíz), on border section II between boundary markers 155/9 and 155/10,
- (14) the bridge over the Olešnica Potok stream (Olešnice) between Podlesie and Ondřejovice (by the Ondřejovice machinery plant), on border section II between boundary markers 157/8 and II/158a,
- (15) the bridge over the Orlica (Divoká Orlice) River between Niemojów and Bartošovice v Orlických horách, on border section III between boundary markers III/102 and III/103,
- (16) the bridge over the Orlica (Divoká Orlice) River between Mostowice and Orlické Záhoří, on border section III between boundary markers III/113 and III/114,
- (17) the bridge over the Orlica (Divoká Orlice) River between Lasówka and Orlické Záhoří, cadastral district Bedřichovka, on border section III between boundary markers 117/8 and III/118,
- (18) the bridge over the Lubota Potok stream (Oldřichovský potok) between Kopaczów and Oldřichov na Hranicích, on border section IV between boundary markers IV/144 and 144/1,
- (19) the bridge over the Lubota Potok stream (Oldřichovský potok) between Porajów and Hrádek nad Nisou, on border section IV between boundary markers 145/16 and IV/146,
- (20) the road between Leszna Górna and Horní Lištná, on border section I between boundary markers I/60 and 60/3a, 60/3b, with the length of 0,333 km,
- (21) the road between Chałupki and Šilheřovice, on border section II between boundary markers 11/4a, 11/4b and II/12, with the length of 0,671 km,
- (22) the road between Kopaczów and Oldřichov na Hranicích, on border section IV between boundary markers IV/142 and 142/14a, 142/14b, with the length of 0,867 km.

**The Republic of Poland shall be responsible for the maintenance of the following bridges and common road sections on the Czech-Polish State border:**

- (1) the bridge over the Olza (Olše) River between Cieszyn and Chotěbuz, on border section I between boundary markers 91/3 and 91/4,

- (2) the bridge over the Odra (Oder) River between Chałupki and Bohumín (steel section of an old bridge), on border section II between boundary markers 7/4 and 7/5,
- (3) the bridge over the Strachowicki Potok stream (Strahovický potok) between Krzanowice and Rohov, on border section II between boundary markers 35/12 and 35/13,
- (4) the bridge over the Opawa (Opava) River between Boboluszki and Skrochovice, on border section II between boundary markers 81/8 and 81/9,
- (5) the bridge over the Opawica (Opavice) River between Chomiąza and Chomýž, on border section II between boundary markers II/96 and 96/1,
- (6) the bridge over the Wielki Potok stream (potok Hrozová) between Pielgrzymów and Pelhřimov, on border section II between boundary markers 108/2 and 108/3,
- (7) the bridge over the Cieklec Potok stream (potok Hrozová) between Równe and Slezské Rudoltice, on border section II between boundary markers 110/7 and 110/8,
- (8) the bridge (culvert) on the Graniczny Potok stream (Hraniční potok) between Trzebina and Bartultovice, on border section II between boundary markers II/135 and 135/1,
- (9) the bridge (culvert) on the Łużyca Potok stream (Lužický potok) between Czerniawa Zdrój and Nove Mesto pod Smrkem, on border section IV between boundary markers 66/23 and IV/67,
- (10) the road between Puńców and Kojkovice u Třince, on border section I between boundary markers I/65a, I/65b and I/67a, I/67b, with the length of 0,968 km,
- (11) the road between Chałupki/Rudyszwałd and Šilheřovice, on border section II between boundary markers II/12 and 12/8, with the length of 0,917 km.

The numbers of boundary markers identifying the location of bridges and shared road sections correspond to the border documentation drawn up on the basis of Article 10(4) of the Agreement between the Republic of Poland and the Czech Republic on the common State border, done at Prague on 17 January 1995.

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## ANNEX II

**The Czech Republic shall be responsible for the construction and subsequent maintenance of the following bridges on the Czech-Polish State border:**

- (1) a bridge over the Olza (Olše) River between Cieszyn and Český Těšín (a sports footbridge), on border section I between boundary markers I/85 and 84/4,
- (2) a bridge over the Olza (Olše) River between Cieszyn and Český Těšín (a footbridge by a railway bridge), on border section I at the boundary marker 88/7,
- (3) a bridge over the Olza (Olše) River between Olza and the Kopytov district of the town of Bohumín (a footbridge), on border section I between boundary markers I/182 and 182/1,
- (4) a bridge over the Orlica (Divoká Orlice) River between Niemojów and Bartošovice v Orlických horách, on border section III at the boundary marker 101/32,
- (5) a bridge over the Orlica (Divoká Orlice) River between Poniatów and Bartošovice v Orlických horách, cadastral district Neratov (a footbridge), on border section III at the boundary marker III/106,
- (6) a bridge over the Orlica (Divoká Orlice) River between Rudawa and Bartošovice v Orlických horách, cadastral district Podlesí (a footbridge) on border section III between boundary markers 107/9 and 107/10.

**The Republic of Poland shall be responsible for the construction and subsequent maintenance of the following bridges on the Czech-Polish State border:**

- (1) a bridge over the Olza (Olše) River between Cieszyn and Český Těšín (European Footbridge), on border section I at the boundary marker I/87,
- (2) a bridge over the Olza (Olše) River between Hażlach-Pogwizdów and the Louky nad Olší district of the town of Karviná (a footbridge), on border section I between boundary markers 98/6 and I/99,
- (3) a bridge over the Opawica (Opavice) River between Chomiąza and Chomýž (a footbridge), on border section II between boundary markers 95/2 and 95/3,
- (4) a bridge over the Orlica (Divoká Orlice) River between Niemojów and Bartošovice v Orlických horách, cadastral district Vrchní Orlice (a footbridge), on border section III between boundary markers III/104 and 104/1,
- (5) a bridge over the Orlica (Divoká Orlice) River between Rudawa and Bartošovice v Orlických horách, cadastral district Nová Ves (a footbridge), on border section III between boundary markers 108/2 and 108/3.

The numbers of boundary markers identifying the location of bridges correspond to the border documentation drawn up on the basis of Article 10(4) of the Agreement between the Republic of Poland and the Czech Republic on the common State border, done at Prague on 17 January 1995.

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