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Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

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I

(Legislative acts)

DIRECTIVES

COUNCIL DIRECTIVE (EU) 2021/1159

of 13 July 2021

amending Directive 2006/112/EC as regards temporary exemptions on importations and on certain supplies, in response to the COVID-19 pandemic

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 113 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Having regard to the opinion of the European Economic and Social Committee ⁽²⁾,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) In accordance with Council Directive 2006/112/EC ⁽³⁾, Member States are to exempt from value added tax (VAT) the importation of goods by, and the supply of goods and services to, the Union, the European Atomic Energy Community, the European Central Bank or the European Investment Bank or the bodies set up by the Union to which the Protocol (No 7) on the privileges and immunities of the European Union, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union ('the Protocol'), applies, within the limits and under the conditions of the Protocol and the agreements for its implementation or the headquarters agreements, in so far as it does not lead to distortion of competition. That exemption is, however, strictly limited to purchases made for official use and it does not extend to situations where goods and services are purchased by Union bodies in order to respond to the emergency situation posed by the COVID-19 pandemic, particularly when they are to be made available for free to Member States or third parties such as national authorities or institutions.
- (2) Therefore, because there is still an urgent need for the adoption of measures in order to create readiness to act when dealing with the ongoing sanitary crisis, it is necessary to ensure a VAT exemption for the purchase of goods and services by the Commission or by an agency or body established under Union law in the execution of their tasks, in order to respond to the COVID-19 pandemic. This would ensure that measures taken under the various Union initiatives in that situation are not hampered by amounts of VAT which cannot be recovered by the Union institutions, or by the compliance burden resulting from obligations to register for VAT.

⁽¹⁾ Opinion of 18 May 2021 (not yet published in the Official Journal).

⁽²⁾ Opinion of 27 April 2021 (not yet published in the Official Journal).

⁽³⁾ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

- (3) Council Directive (EU) 2020/2020 ⁽⁴⁾ is not sufficient to achieve the objective of enhancing the fight against the COVID-19 pandemic since it only allows, for a limited period of time, the application by Member States of reduced rates to the supply of COVID-19 *in vitro* diagnostic medical devices and services closely linked to such devices or the granting of an exemption with deductibility of VAT paid at the preceding stage in respect of the supply of COVID-19 vaccines and *in vitro* diagnostic medical devices, and services closely linked to such vaccines and devices.
- (4) Directive 2006/112/EC should therefore be amended accordingly.
- (5) In view of the current COVID-19 pandemic, the measures that could fall under the new exemption to address the effects of the COVID-19 pandemic are already underway, for example under the Emergency Support Instrument established by Council Regulation (EU) 2020/521 ⁽⁵⁾. If VAT were to be paid for transactions related to such measures, valuable resources would be lost, resulting in fewer goods and services being provided to the Member States in proportion to the amount of tax to be paid. In order to make the best use of the Union budget in addressing the very serious consequences of the COVID-19 pandemic, the exemptions introduced by this Directive should therefore apply, with retroactive effect, from 1 January 2021. Such retroactive application is indispensable to avoid the measures that are being taken to address the effects of the COVID-19 pandemic from being deprived of their effect. Any adjustment required in respect of transactions initially taxed could be made by using correction mechanisms already in place, for example through a subsequent VAT return.
- (6) In view of the urgency of the situation related to the COVID-19 pandemic, this Directive should enter into force on the day of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 2006/112/EC is amended as follows:

- (1) Article 143 is amended as follows:
 - (a) in paragraph (1), the following point is inserted:

‘(fb) the importation of goods by the Commission or by an agency or a body established under Union law where the Commission or such an agency or body imports those goods in the execution of tasks conferred on it by Union law in order to respond to the COVID-19 pandemic, except where the goods imported are used, either immediately or at a later date, for the purposes of onward supplies for consideration by the Commission or such an agency or body;’;
 - (b) the following paragraph is added:

‘3. When the conditions for the exemption laid down in paragraph 1, point (fb), cease to apply, the Commission or the agency or body concerned shall inform the Member State in which the exemption was applied and the importation of those goods shall be subject to VAT under the conditions applicable at that time.’;
- (2) Article 151 is amended as follows:
 - (a) paragraph 1 is amended as follows:
 - (i) in the first subparagraph, the following point is inserted:

‘(ab) the supply of goods or services to the Commission or to an agency or a body established under Union law where the Commission or such an agency or body purchases those goods or services in the execution of the tasks conferred on it by Union law in order to respond to the COVID-19 pandemic, except where the goods and services purchased are used, either immediately or at a later date, for the purposes of onward supplies for consideration by the Commission or such an agency or body;’;

⁽⁴⁾ Council Directive (EU) 2020/2020 of 7 December 2020 amending Directive 2006/112/EC as regards temporary measures in relation to value added tax applicable to COVID-19 vaccines and *in vitro* diagnostic medical devices in response to the COVID-19 pandemic (OJ L 419, 11.12.2020, p. 1).

⁽⁵⁾ Council Regulation (EU) 2020/521 of 14 April 2020 activating the emergency support under Regulation (EU) 2016/369, and amending its provisions taking into account the COVID-19 outbreak (OJ L 117, 15.4.2020, p. 3).

(ii) the second subparagraph is replaced by the following:

‘Pending the adoption of common tax rules, the exemptions provided for in the first subparagraph, other than that referred to in point (ab), shall be subject to the limitations laid down by the host Member State.’;

(b) the following paragraph is added:

‘3. When the conditions for the exemption laid down in paragraph 1, first subparagraph, point (ab), cease to apply, the Commission or the agency or body concerned which received the exempt supply shall inform the Member State in which the exemption was applied and the supply of those goods or services shall be subject to VAT under the conditions applicable at that time.’

Article 2

Transposition

Member States shall adopt and publish, by 31 December 2021, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall immediately inform the Commission thereof.

They shall apply the measures provided for in Article 1 from 1 January 2021.

When Member States adopt those provisions, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Article 3

This Directive shall enter into force on the date of its publication in the *Official Journal of the European Union*.

Article 1 shall apply from 1 January 2021.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 13 July 2021.

For the Council
The President
A. ŠIRCELJ

II

(Non-legislative acts)

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2021/1160

of 12 May 2021

amending Regulation (EU) 2019/1241 of the European Parliament and of the Council as regards the sprat box and the plaice box in the North Sea

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2019/1241 of the European Parliament and of the Council of 20 June 2019 on the conservation of fisheries resources and the protection of marine ecosystems through technical measures, amending Council Regulations (EC) No 1967/2006, (EC) No 1224/2009 and Regulations (EU) No 1380/2013, (EU) 2016/1139, (EU) 2018/973, (EU) 2019/472 and (EU) 2019/1022 of the European Parliament and of the Council, and repealing Council Regulations (EC) No 894/97, (EC) No 850/98, (EC) No 2549/2000, (EC) No 254/2002, (EC) No 812/2004 and (EC) No 2187/2005 ⁽¹⁾, and in particular Article 15(2) thereof,

Whereas:

- (1) Regulation (EU) 2019/1241 provides for the establishment of technical measures for the North Sea.
- (2) Belgium, Denmark, Germany, France, the Netherlands and Sweden (Scheveningen Group) have a direct fisheries management interest in the North Sea. On 15 and 19 October 2020, those Member States submitted two joint recommendations in accordance with Article 18(1) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council ⁽²⁾ and Article 15(3) of Regulation (EU) 2019/1241, proposing the adoption of certain modifications of the current provisions on the plaice box and the sprat box in the North Sea set out in Annex V to Regulation (EU) 2019/1241 by means of a delegated act of the Commission. They submitted a revised version of the joint recommendation on the sprat box on 2 February 2021. Both joint recommendations were sent by those Member States to the relevant advisory councils for consultation.
- (3) Given that both joint recommendations propose changes to Annex V to Regulation (EU) 2019/1241, this delegated Regulation provides for the measures recommended by the Member States as regards both the sprat box and the plaice box.
- (4) The Scientific, Technical and Economic Committee for Fisheries (STECF) assessed the evidence provided by the Member States in support of the provisions included in both joint recommendations ⁽³⁾. The proposed measures were evaluated in accordance with the principles established in Article 15(4) of Regulation (EU) 2019/1241.
- (5) The joint recommendation submitted by the Member States on the plaice box suggested the introduction of a specific exemption for vessels whose engine power exceeds 221 kW using Danish seines, provided that such vessels comply with the mesh sizes set out in point 1.1 of Part B of Annex V to Regulation (EU) 2019/1241. The STECF analysed the evidence presented by the Member States and concluded that, considering the limited number of vessels concerned and the limited impact that Danish anchor seine has on the bottom, the introduction of the specific exemption for Danish seine is not expected to have any significant effect on the level of protection inside the area. The proposed measure should therefore be included in this Regulation.

⁽¹⁾ OJ L 198, 25.7.2019, p. 105.

⁽²⁾ Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

⁽³⁾ <https://stecf.jrc.ec.europa.eu/documents/43805/2786172/STECF+PLEN+20-03.pdf>, pages 93-105 (sprat box) and pages 106-113 (plaice box).

- (6) The joint recommendation on the plaice box further suggested replacing, in point 2.2(c) of part C of Annex V to Regulation (EU) 2019/1241, the term 'bottom trawls' by the term 'bottom otter trawls'. The STECF analysed the evidence presented by the Member States and concluded that the proposed change is likely to remove any ambiguity in the Regulation and provide levels of protection that are at least equivalent, and likely higher, to what is currently prescribed in Regulation (EU) 2019/1241. The proposed measure should therefore be included in this Regulation.
- (7) The joint recommendation on the plaice box also suggested a maximum of 24m for the vessel length of beam trawlers to be included, after this Regulation applies, in the list of vessels set out in point 2.4 of part C of Annex V to Regulation (EU) 2019/1241. The STECF analysed the evidence presented by the Member States and concluded that this restriction will ensure levels of protection that are at least equivalent to what is currently prescribed in Regulation (EU) 2019/1241. The proposed measure should therefore be included in this Regulation.
- (8) The joint recommendation submitted by the Member States on the sprat box suggested to continue for a period of three years the practice of lifting the sprat box for vessels with certain gears from 1 July to 31 October, as provided for by Commission Delegated Regulation (EU) No 1395/2014 ⁽⁴⁾ for the period until 31 December 2020. The STECF analysed the evidence presented by the Member States on the sprat box and concluded that there is no clear indication that the lifting of the sprat box since 2017 has caused any damage on the herring stock. The STECF further concluded that it is unlikely that lifting the sprat box would lead to lower levels of protection than what is currently in place. STECF however observed that more years of fishery monitoring are needed in order to prove that equivalent levels of protection will be maintained. The STECF therefore suggested that the impact of the lifting is re-evaluated after three years of monitoring. The Member States committed to monitoring the impact of the lifting of the sprat box during this period by collecting the data set out in their joint recommendation with regard to herring bycatch in the fishery for sprat. This data will be submitted for evaluation by the STECF. The proposed measure should therefore be included in this Regulation.
- (9) Regulation (EU) 2019/1241 should therefore be amended accordingly.
- (10) As the measures provided for in this Regulation have a direct impact on the planning of the fishing season of Union vessels and on related economic activities, this Regulation should enter into force immediately after its publication,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) 2019/1241 is amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 12 May 2021.

For the Commission
The President
Ursula VON DER LEYEN

⁽⁴⁾ Commission Delegated Regulation (EU) No 1395/2014 of 20 October 2014 establishing a discard plan for certain small pelagic fisheries and fisheries for industrial purposes in the North Sea (OJ L 370, 30.12.2014, p. 35).

ANNEX

Part C of Annex V to Regulation (EU) 2019/1241 is amended as follows:

(1) point 2.2 is amended as follows:

(a) point (c) is replaced by the following:

‘(c) vessels whose engine power exceeds 221 kW shall be permitted to use bottom otter trawls, and paired vessels whose combined engine power exceeds 221 kW shall be permitted to use bottom pair trawls provided that such vessels do not engage in directed fishing for plaice and sole and comply with the relevant mesh size rules contained in Part B of this Annex.’;

(b) the following point (d) is added:

‘(d) vessels whose engine power exceeds 221 kW shall be permitted to use Danish seines provided that such vessels comply with the mesh size provided for in point 1.1 of Part B of this Annex.’;

(2) point 2.4 is replaced by the following:

‘2.4. Vessels permitted to fish in the area referred to in point 2.1 shall be included in a list to be provided to the Commission by each Member State. The total engine power of the vessels referred to in point 2.2(a) within the list shall not exceed the total engine power in evidence for each Member State at 1 January 1998. The permitted fishing vessels shall hold a fishing authorisation in accordance with Article 7 of Regulation (EC) No 1224/2009. From 1 July 2021, only beam trawlers with a length overall of maximum 24 meters may be added to that list.’;

(3) the following paragraphs are added to point 4:

‘By way of derogation from the third indent of the first paragraph, that indent shall not apply until 31 December 2023 to fishing with the following gear:

(a) towed gear with a mesh size of less than 32 mm;

(b) purse seines; or

(c) gillnets, entangling nets, trammel nets and driftnets with a mesh size of less than 30 mm.

Member States having a direct management interest shall submit by 15 December 2023 to the Commission monitoring data supporting the derogation.’.

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