

Procedure file

Basic information			
CNS - Consultation procedure Directive	2006/0021(CNS)	Procedure completed	
Tax and duty-free allowances: exemption from valued added tax VAT and excise duty of goods imported by travellers from third countries (repeal. Directive 69/169/EEC)			
Subject 2.10.01 Customs union, tax and duty-free, Community transit 2.70.02 Indirect taxation, VAT, excise duties			
Key players			
European Parliament	Committee responsible ECON Economic and Monetary Affairs	Rapporteur PPE-DE <u>TANNOCK Timothy</u> <u>Charles Ayrton</u>	Appointed 14/03/2006
Council of the European Union	Committee for opinion INTA International Trade	Rapporteur for opinion The committee decided not to give an opinion.	Appointed
	ENVI Environment, Public Health and Food Safety	The committee decided not to give an opinion.	
	Council configuration <u>Environment</u> <u>Economic and Financial Affairs ECOFIN</u> <u>Economic and Financial Affairs ECOFIN</u>	Meeting <u>2842</u> <u>2766</u> <u>2759</u>	Date 20/12/2007 28/11/2006 07/11/2006
European Commission	Commission DG <u>Taxation and Customs Union</u>	Commissioner KOVÁCS László	
Key events			
22/02/2006	Legislative proposal published	<u>COM(2006)0076</u>	Summary
14/03/2006	Committee referral announced in Parliament		
10/10/2006	Vote in committee		Summary
16/10/2006	Committee report tabled for plenary, 1st reading/single reading	<u>A6-0361/2006</u>	
07/11/2006	Debate in Council	<u>2759</u>	
14/11/2006	Results of vote in Parliament		

14/11/2006	Decision by Parliament	T6-0475/2006	Summary
20/12/2007	Act adopted by Council after consultation of Parliament		
20/12/2007	End of procedure in Parliament		
29/12/2007	Final act published in Official Journal		

Technical information	
Procedure reference	2006/0021(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Directive
Legal basis	EC Treaty (after Amsterdam) EC 093
Stage reached in procedure	Procedure completed
Committee dossier	ECON/6/34445

Documentation gateway					
Legislative proposal		COM(2006)0076	22/02/2006	EC	Summary
Committee draft report		PE374.425	19/06/2006	EP	
Economic and Social Committee: opinion, report		CES0970/2006	05/07/2006	ESC	
Amendments tabled in committee		PE376.707	07/08/2006	EP	
Committee report tabled for plenary, 1st reading/single reading		A6-0361/2006	16/10/2006	EP	
Text adopted by Parliament, 1st reading/single reading		T6-0475/2006	14/11/2006	EP	Summary
Commission response to text adopted in plenary		SP(2007)0054	11/01/2007	EC	
Follow-up document		COM(2013)0849	03/12/2013	EC	Summary

Additional information	
National parliaments	IPEX
European Commission	EUR-Lex

Final act	
Directive 2007/74 OJ L 346 29.12.2007, p. 0006	Summary

Tax and duty-free allowances: exemption from valued added tax VAT and excise duty of goods imported by travellers from third countries (repeal. Directive 69/169/EEC)

PURPOSE : to lay down rules relating to the exemption from value added tax (VAT) and excise duty of goods imported in the personal luggage of persons travelling from countries or territories where the harmonised rules on VAT and excise duty, respectively, do not apply.

PROPOSED ACT : Council Directive.

CONTEXT : Council Directive 69/169/EEC of 28th May 1969 contains the harmonisation of provisions to exempt imports by travellers coming from third countries from turnover tax (VAT) and excise duty. Such a Community system of tax reductions on imports has proved necessary in

respect of travel between third countries and the Community. However, it needs to be adapted to the enlargement and to the fact that the Community's external borders now include, inter alia, Russia, Ukraine and Belarus. The Commission, having received several requests by Member States for amendment of the Directive, proposes to modernise the provisions concerning tax exemptions in international travel.

CONTENT : the Commission proposes :

1)to increase the current limit of EUR 175 and to introduce at the same time a distinction between air travellers (EUR 500) and other travellers (EUR 220): it is proposed to make a distinction and therefore to apply different thresholds depending on the means of transport ? land and sea transport versus air transport. The cost and effort of travelling by air would suggest that such travel is likely to be less frequently undertaken by individuals compared to those choosing to travel by land or ferry. Additionally, air passengers are by their nature limited to what they can buy and transport, i.e. they would not be able to transport bulky items. Such a distinction could prevent potential problems which Member States with a land border with third countries with a significantly lower price level might have in increasing the EUR 175 threshold. On the other hand, other Member States whose third country travellers will be almost entirely air passengers could benefit from the higher threshold. The increase of the EUR 175 threshold to EUR 220 is justified on the ground that it restores its real value at the time the threshold was last agreed (in 1994);

2) to abolish the quantitative limits for perfume, coffee and tea since they no longer reflect the real pattern of taxation of excisable goods in the EU of 25 Member States: taking into account that only a limited number of Member States levy an excise duty on these products (none on perfume, which is exempted under Community legislation, 1 on tea, 5 on coffee) the Commission takes the view that these limits, applying to travellers in 25 Member States, are no longer justified. In any event, these limits could be subsumed within the monetary threshold;

3) to introduce a quantitative limit for beer of 16 litres and increase the quantitative limit for wine from 2 to 4 litres: the Directive does not contain a limit for beer although this product is highly taxed in some Member States. On the other hand, the import of all other alcoholic beverages is subject to fixed allowances. In particular, wine is limited to two litres, yet several Member States have a zero excise rate on wine. The introduction of a quantitative restriction for beer would, therefore, be logical and could help solve the problems which some Member States with a border with third countries with a significantly lower price level are facing. In order to provide some consistency for all alcoholic beverages, a quantitative limit for beer of 16 litres and an increase in the quantitative limit for wine from 2 to 4 litres is proposed;

4) to increase the amount on which Member States are free not to levy taxes on the import of goods: the amount on which Member States are free not to levy taxes on the import of goods needs to be increased in order to take account of inflation and is therefore increased from EUR 5 to EUR 10;

5) to delete the option for the Member States to exclude goods falling within CN codes 7108 and 7109 from exemption: this provision is under the current scheme of VAT no more justified;

6) to revise the provisions and the structure in order to simplify and to improve the legibility of the Directive: a number of mainly textual refinements have been made to reflect current legal drafting requirements and so remove any scope for ambiguity. In addition, the third territories which are essential for the application of this Directive have been defined.

FINANCIAL IMPLICATIONS :

Theoretically, the proposal might result in a certain loss of revenue of VAT and excise duties but, simultaneously, it might also create extra revenue because of the introduction of a limit for beer. On the other hand, given that the proposal aims to reduce the administrative burdens it will free up value resources which will enable Customs authorities to focus their efforts on combating large scale smuggling, which, in turn, will off-set potentially greater losses.

Consequently, although this proposal could have a minor budgetary impact, it is considered negligible/non measurable.

Tax and duty-free allowances: exemption from valued added tax VAT and excise duty of goods imported by travellers from third countries (repeal. Directive 69/169/EEC)

The committee adopted the report by Charles TANNOCK (EPP-ED, UK) broadly approving the proposed directive on the exemption from VAT and excise duty of goods imported by persons travelling from third countries. It nevertheless tabled a number of amendments under the consultation procedure:

- a new definition was introduced into the directive: "sea ferry or cruise travellers", meaning any passenger travelling by means of a scheduled maritime ferry, liner or cruise ship for at least 50 km. The thresholds and quantitative limits allowed for air travel should be extended to such passengers, and the monetary thresholds should be increased from EUR 500, as proposed by the Commission, to EUR 1000;
- following on from the proposed increase for air and sea travel, the monetary thresholds for land crossing proposed by the Commission (EUR 220 per person) should be increased to EUR 330;
- the quantities of still wine and beer exempt from VAT and excise duty should be equivalent in terms of alcoholic content;
- exemptions for imports of tobacco and alcohol should not apply to travellers under the age of 18 (which is the legal drinking age in most EU Member States);
- Member States should "have the right to monitor the rate of and take measures necessary to counteract petrol tourism for the purposes of tax avoidance in their border regions";
- the provision allowing Member States to apply lower monetary and quantitative thresholds to "persons resident in the frontier zone" should be deleted on the grounds that it is discriminatory, hard to police and arbitrary;
- an automatic review mechanism (every 5 years) for the monetary thresholds should be introduced into the directive.

Tax and duty-free allowances: exemption from valued added tax VAT and excise duty of goods

imported by travellers from third countries (repeal. Directive 69/169/EEC)

The European Parliament adopted a resolution drafted by Charles TANNOCK (EPP-ED, UK) but made a number of amendments to the Commission's proposal. (Please see the summary of 10/10/2006.)

Tax and duty-free allowances: exemption from valued added tax VAT and excise duty of goods imported by travellers from third countries (repeal. Directive 69/169/EEC)

PURPOSE: to review the Community system of tax exemptions in order to adapt it to enlargement and to the new external borders.

LEGISLATIVE ACT: Council Directive 2007/74/EC on the exemption from value added tax and excise duty of goods imported by persons travelling from third countries.

CONTENT: the Council adopted a Directive on tax exemptions for goods imported by persons entering EU territory from third countries. The new Directive revises and replaces Directive 69/169/EEC on tax exemptions, while adapting it to the enlarged EU, and to restructure and simplify certain provisions. It also provides for the monetary threshold for tax exemptions to be raised, particularly in order to take into account the effects of inflation since they were last revised in 1994.

The main elements of the Directive are as follows:

The monetary threshold for exemptions from excise duties increases from EUR 175 to EUR 430 in the case of air and sea travellers and from EUR 175 to EUR 300 for those travelling by land (including internal navigation routes). Member States may lower the monetary threshold for travellers under 15 years old, whatever their means of transport. However, the monetary threshold may not be lower than EUR 150.

Member States shall exempt from VAT and excise duty imports of the following types of tobacco product, subject either to the following higher or lower quantitative limits:

- (a) 200 cigarettes or 40 cigarettelets;
- (b) 100 cigarillos or 20 cigarillos;
- (c) 50 cigars or 10 cigars;
- (d) 250 g smoking tobacco or 50 g smoking tobacco.

Member States may apply different quantitative limits on exemptions from excise duties for tobacco products depending on whether they enter the EU by air (higher limit) or by land or sea (lower limit).

Member States shall exempt from VAT and excise duty:

- alcohol and alcoholic beverages other than still wine and beer, subject to the following quantitative limits: (a) a total of 1 litre of alcohol and alcoholic beverages of an alcoholic strength exceeding 22 % vol, or undenatured ethyl alcohol of 80 % vol and over; (b) a total of 2 litres of alcohol and alcoholic beverages of an alcoholic strength not exceeding 22 % vol;
- a total of 4 litres of still wine and 16 litres of beer.

Lastly, Member States may choose not to levy VAT or excise duty on the import of goods by a traveller when the amount of the tax which should be levied is equal to, or less than, EUR 10.

Every four years and for the first time in 2012 the Commission shall forward a report on the implementation of this Directive to the Council, where appropriate accompanied by a proposal for amendment.

ENTRY INTO FORCE: 29/12/2007. The Directive shall apply with effect from 01/12/2008.

Tax and duty-free allowances: exemption from valued added tax VAT and excise duty of goods imported by travellers from third countries (repeal. Directive 69/169/EEC)

The Commission presented a report based on Article 16 of Council Directive 2007/74/EC on the exemption from value added tax and excise duty of goods imported by persons travelling from third countries according to which the Commission shall provide a report to the Council concerning the implementation of this Directive, where appropriate accompanied by a proposal for amendment.

In order to establish this report the Commission carried out a consultation of Member States in order to obtain feedback on the implementation, effectiveness and usefulness of the relevant provisions.

The vast majority of Member States is content with the provisions and do not see any need to revise the current Directive. A considerable number of comments received refer to linguistic/editorial changes only.

While identifying a number of relevant problems, notably as regards the definition and interpretation of technical terms such as occasional imports, the Commission sees no convincing case for legislative action at this stage.

In particular, the Commission:

- continues to see a need for the specific rules in Art. 3 (1) and 3(2) of Council Directive 2007/74/EC (which distinguish between a third country and a territory other than a third country where Directives 2006/112/EC or 92/12/EEC, or both not apply);
- sees no real room for making the exclusion of individuals travelling via private pleasure-flying or private pleasure-sea-navigation optional for Member States;
- sees no room for aligning the definition of traveller in Article 3 of the Directive to that in Article 236 of Regulation 2454/93;

- is not aware of abusive practices having an economic dimension which would require a legislative initiative nor have Member States reported such practices. The Commission services do therefore not intend to open discussion on this issue of including duty free purchases made on the traveller's outward journey in the provision on personal luggage/monetary thresholds;
- does not see a need or any value-added in aligning the definition of crew of a means of transport in Article 13 of the Directive to that of Article 49(1) of Regulation (EEC) No 918/83 of the Council on the Community system of reliefs from customs duty, replaced by Council Regulation (EU) No 1186/2009;
- does not intend proposing an amendment of the Directive as regards the treatment of snus;
- sees no reason to abolish the distinction between air travellers and other travellers (applying lower quantitative limits for tobacco products only to travellers other than air travellers);
- does not support an increase of quantitative limits in the Directive to the guide levels stipulated in Council Directive 2008/118/EC;
- does not intend to amend this provision concerning the age of travellers at this stage (one Member State suggests replacing the age indication of "17" with "18", with respect to public health measures for minors in the various Member States);
- is favourable of maintaining the exemption for fuel contained in standard tanks of vehicles as well as the exemption for fuel contained in a portable container of not exceeding 10 litres;
- does therefore not intend to re-open discussions on this topic of the relation between monetary thresholds and quantitative limits;
- discuss the topic of inland navigation and passenger transport on the river Danube with Member States in the Committee on excise duties.

In conclusion, the Commission is open to developing administrative tools and best practices together with interested Member States for addressing practical problem scenarios appropriately and then sharing that knowledge with other Member States.