

Procedure file

Basic information		
CNS - Consultation procedure Directive	2019/0096(CNS)	Procedure completed
Defence effort within the Union framework: common system of value added tax and general arrangements for excise duty		
Subject 2.70.02 Indirect taxation, VAT, excise duties		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 Economic and Monetary Affairs	 TANG Paul Shadow rapporteur	18/07/2019
		 DOLESCHAL Christian	
		 KOVÁŘÍK Ondřej	
		 SCOTT CATO Molly	
		 GANCIA Gianna	
		 JURZYCA Eugen	
	Former committee responsible		
	 Economic and Monetary Affairs		
Council of the European Union European Commission	Commission DG Taxation and Customs Union	Commissioner MOSCOVICI Pierre	

Key events			
24/04/2019	Legislative proposal published	COM(2019)0192	Summary
15/07/2019	Committee referral announced in Parliament		
19/11/2019	Vote in committee		
19/11/2019	Committee report tabled for plenary, 1st reading/single reading	A9-0034/2019	Summary

26/11/2019	Results of vote in Parliament		
26/11/2019	Decision by Parliament	T9-0060/2019	Summary
30/12/2019	Final act published in Official Journal		
20/01/2020	Act adopted by Council after consultation of Parliament		

Technical information

Procedure reference	2019/0096(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Directive
Legal basis	Treaty on the Functioning of the EU TFEU 113
Other legal basis	Rules of Procedure EP 159
Stage reached in procedure	Procedure completed
Committee dossier	ECON/9/00466

Documentation gateway

Legislative proposal	COM(2019)0192	24/04/2019	EC	Summary
Committee draft report	PE641.258	03/10/2019	EP	
Economic and Social Committee: opinion, report	CES2530/2019	30/10/2019	ESC	
Committee report tabled for plenary, 1st reading/single reading	A9-0034/2019	19/11/2019	EP	Summary
Text adopted by Parliament, 1st reading/single reading	T9-0060/2019	26/11/2019	EP	Summary
Commission response to text adopted in plenary	SP(2019)706	17/12/2019	EC	

Final act

[Directive 2019/2235](#)
[OJ L 336 30.12.2019, p. 0010](#) Summary

Defence effort within the Union framework: common system of value added tax and general arrangements for excise duty

PURPOSE: to align VAT and excise duty as regards defence effort within the Union and NATO.

PROPOSED ACT: Council Directive.

ROLE OF THE EUROPEAN PARLIAMENT: the Council adopts the act after consulting the European Parliament but without being obliged to follow its opinion.

CONTENT: Council Directive 2006/112/EC provides, under certain conditions, an exemption from value added tax (VAT) for goods and services supplied to and goods imported by the armed forces of any State party to the North Atlantic Treaty when such forces are taking part in the common defence effort outside their own State.

Council Directive 2008/118/EC (Excise Directive) provides an exemption from excise duty for excise goods intended to be used by the armed forces of any State party to the North Atlantic Treaty (NATO).

These exemptions are not possible when the armed forces of a Member State are involved in activities under the Common Security and Defence Policy (CSDP) because there is as yet no common EU defence policy. However, the CSDP - created as the European Security and Defence Policy (ESDP) in 2000 - is a key instrument for external action and includes the progressive definition of a common defence policy for

the Union.

In their [joint communication](#) of 28 March 2018 on the Action Plan on Military Mobility, the High Representative of the Union for Foreign Affairs and Security Policy and the Commission recognised the overall need for harmonisation of the VAT treatment of defence efforts within the Union and under the aegis of the North Atlantic Treaty Organisation (NATO).

On 19 November 2018, the Council concluded on Security and Defence in the context of the EUGS. In particular, the Council welcomed the progress in the implementation of the Permanent Structured Cooperation (PESCO) and the ongoing implementation of efforts to improve the mobility of military personnel, materiel and equipment for routine activities and during crisis and conflict, within and beyond the EU.

IMPACT ASSESSMENT: the CSDP activities that shall be covered by the exemptions are as follows: military missions and operations; battlegroups; mutual assistance; PESCO; European Defence Agency (EDA) activities.

In 2014, expenditure on outsourced operations and maintenance in all Member States (except Denmark) amounted to EUR 5.3 billion.

The Commission considers that a maximum of 10 % of the overall amount (EUR 530 million) could either become VAT-exempt under the new rules or would already be covered by the exemption for NATO activities. This concerns supplies of goods (e.g. food, fuel, special liquids, equipment, pharmaceutical provisions, electricity, water, gas) and services (e.g. catering, communication, maintenance, repair, transportation, road charges).

CONTENT: in line with the Commission's commitment in the Action Plan on Military Mobility, this proposal to amend the VAT and Excise Directives aims to harmonise, as far as possible, the VAT and excise-duty treatment of defence efforts within the EU and under NATO frameworks. The arrangements for exemptions from excise duties, as provided for in the Excise Directive, should be aligned in a similar way.

In concrete terms, the proposal:

- ensures that the use of goods by Member States armed forces taking part in the defence effort carried out for the implementation of a Union activity under the CSDP will be treated as an intra-EU acquisition for consideration where those goods, which have not been purchased under the local VAT rules of the Member State in which the forces are stationed, are brought back and used by those forces for their needs or for their accompanying civilian staff in their own Member State;
- introduces a VAT exemption for the importation of goods into Member States by the armed forces of other Member States taking part in a defence effort carried out for the implementation of a Union activity under the CSDP, where the goods are for the use of those forces or accompanying civilian staff or for supplying their messes or canteens;
- introduces an excise-duty exemption for defence effort carried out for the implementation of a Union activity under the CSDP. The exemption will cover supplies of excise goods to the armed forces of any Member State other than that in which the excise duty is chargeable, for the use of those forces or accompanying civilian staff, or for supplying their messes or canteens where such forces are taking part in a defence effort carried out for the implementation of a Union activity under the CSDP.

Only expenses incurred in respect of tasks directly linked to a defence effort should be eligible for exemption. Tasks performed exclusively by civilian staff or performed exclusively by using civilian capabilities should not be covered by the exemption.

Nor should the exemption cover items such as spare parts to military equipment or transport services that the armed forces of a Member State acquire for use within that Member State or extend to the construction of transport or communication and information systems infrastructures.

BUDGETARY IMPLICATIONS: by extending the scope of VAT exemptions, the proposal could reduce VAT revenue collected by Member States and therefore the VAT own resource. As the own resource based on gross national income (GNI) compensates for any expenditure not covered by traditional own resources and the VAT own resource, the non-collected VAT own resources from certain Member States would have to be compensated by all Member States through the GNI own resource. Excise duty is not an own resource. Therefore, there are no implications for the Union budget.

Defence effort within the Union framework: common system of value added tax and general arrangements for excise duty

The Committee on Economic and Monetary Affairs adopted, following a special legislative procedure (consultation), the report by Paul TANG (S&D, NL) on the proposal for a Council directive amending Directive 2006/112/EC on the common system of value added tax and Directive 2008/118/EC concerning the general arrangements for excise duty as regards defence effort within the Union framework.

The committee responsible recommended that the European Parliament approve the Commission proposal as amended.

As a reminder, the objective of this proposal is to align the VAT treatment of defence efforts in the EU and NATO frameworks as far as is feasible. Similarly, the arrangements for exemptions from excise duties, as provided for in the Excise Directive, should be aligned in the same way.

Defence effort

Members suggested that the definition of defence effort should be amended to ensure that all actions, military formations or structures carried out under Article 42 TEU which defines the scope of the common security and defence policy (CSDP) are covered.

Exemptions

The Commission should keep a record of any defence effort carried out for the implementation of a Union activity under the CSDP in respect of which exemptions apply. The exemptions should apply only to situations where armed forces carry out tasks directly linked to a defence effort under the CSDP. They should not cover civilian missions under the CSDP. Goods or services supplied for the use of civilian staff could therefore only be covered by the exemptions when the civilian staff is accompanying armed forces carrying out tasks directly linked to a defence effort under the CSDP outside their Member State.

The report stressed that tasks performed exclusively by civilian staff or performed exclusively by using civilian capabilities should not be

considered to be a defence effort. Nor should the exemptions in any circumstance cover goods or services that the armed forces acquire for the use of the forces or the civilian staff accompanying them within their own Member State.

Defence effort within the Union framework: common system of value added tax and general arrangements for excise duty

The European Parliament adopted by 528 votes to 78, with 61 abstentions, under a special legislative procedure (consultation), a legislative resolution on the proposal for a Council directive amending Directive 2006/112/EC on the common system of value added tax and Directive 2008/118/EC on the general arrangements for excise duty as regards the defence effort within the Union framework.

As a reminder, the objective of this proposal is to align the VAT treatment of defence efforts in the EU and NATO frameworks as far as is feasible. Similarly, the arrangements for exemptions from excise duties, as provided for in the Excise Directive, should be aligned in the same way.

The European Parliament approved the Commission's proposal subject to amendments.

Defence effort

Members suggested that the definition of defence effort should be amended to ensure that all actions, military formations or structures carried out under Article 42 TEU which defines the scope of the common security and defence policy (CSDP) are covered.

It is thus specified that the defence effort carried out with a view to the implementation of a Union activity within the framework of the CSDP covers:

- military missions,
- the activities of battlegroups and other multinational formations or structures established by Member States and operating within the framework of the CSDP,
- mutual assistance,
- permanent structured cooperation (PESCO) projects,
- activities of the European Defence Agency (EDA) and
- activities aimed at the progressive framing of a common Union defence policy.

Exemptions from VAT and excise duty

The Commission should keep a record of any defence effort carried out for the implementation of a Union activity under the CSDP in respect of which exemptions apply.

The exemptions should apply only to situations where armed forces carry out tasks directly linked to a defence effort under the CSDP. They should not cover civilian missions under the CSDP. Goods or services supplied for the use of civilian staff could therefore only be covered by the exemptions when the civilian staff is accompanying armed forces carrying out tasks directly linked to a defence effort under the CSDP outside their Member State.

The resolution stressed that tasks performed exclusively by civilian staff or performed exclusively by using civilian capabilities should not be considered to be a defence effort. Nor should the exemptions in any circumstance cover goods or services that the armed forces acquire for the use of the forces or the civilian staff accompanying them within their own Member State.

Defence effort within the Union framework: common system of value added tax and general arrangements for excise duty

PURPOSE: to harmonise the VAT and excise duty rules applicable to defence efforts within the EU and NATO frameworks.

LEGISLATIVE ACT: Council Directive (EU) 2019/2235 amending Directive 2006/112/EC on the common system of value added tax and Directive 2008/118/EC concerning the general arrangements for excise duty as regards defence efforts within the Union framework.

CONTENT: this Directive amending the VAT and Excise Directives is intended to harmonise the VAT arrangements applicable to defence efforts in the EU and NATO frameworks. The arrangements for exemption from excise duty provided for in the Excise Directive are harmonised in a similar way.

The directive follows on from the [joint communication](#) of 28 March 2018 on the action plan on military mobility, which recognised the overall need for harmonisation of the VAT treatment of defence efforts within the Union and under the aegis of the North Atlantic Treaty Organisation (NATO).

Defence efforts

Within the meaning of the Directive, a defence effort carried out for the implementation of a Union activity under the CSDP covers military missions and operations, activities of battlegroups, mutual assistance, permanent structured cooperation (PESCO) projects and activities of the European Defence Agency (EDA). It does not cover activities falling under the solidarity clause set out in Article 222 of the Treaty on the Functioning of the European Union.

VAT exemptions

The Directive ensures that the use of goods by the armed forces of the Member States which are assigned to the defence effort carried out for the implementation of an activity of the Union in the framework of the Common Security and Defence Policy (CSDP) will be treated as an

intra-EU acquisition for consideration where those goods, which have not been purchased under the local VAT conditions of the Member State in which the forces are stationed, are brought back and used by those forces for their own needs or those of the civilian component accompanying them in their own Member State.

In concrete terms, the Directive:

- introduces an exemption from VAT to cover the supply of goods or services intended either for the use of the armed forces of a Member State or of the civilian staff accompanying them or for supplying their messes or canteens when such forces take part in a defence effort carried out for the implementation of a Union activity under the CSDP outside their Member State. Supplies of goods or services for the armed forces of the Member State in which those goods or services are supplied should be excluded from the VAT exemption;
- provides for an exemption from VAT where goods imported by the armed forces of a Member State are intended either for the use of those forces or of the civilian staff accompanying them or for supplying their messes or canteens when such forces take part in a defence effort carried out for the implementation of a Union activity under the CSDP outside their Member State;
- introduces an exemption from excise duty to cover excise goods supplied for the use of the armed forces of any Member State other than the Member State within which the excise duty is chargeable when such forces take part in a defence effort carried out for the implementation of a Union activity under the CSDP outside their Member State.
- introduces an excise-duty exemption for defence effort carried out for the implementation of a Union activity under the CSDP. The exemption will cover supplies of excise goods to the armed forces of any Member State other than that in which the excise duty is chargeable, for the use of those forces or accompanying civilian staff, or for supplying their messes or canteens where such forces are taking part in a defence effort carried out for the implementation of a Union activity under the CSDP.

The exemptions shall apply only to situations where the armed forces perform tasks directly related to a defence effort under the CSDP and shall not cover civilian missions under the CSDP. They shall not apply, under any circumstances, to goods or services which the armed forces acquire for use by the forces or by civilian personnel accompanying them within their own Member State.

ENTRY INTO FORCE: 19.1.2020.

TRANSPOSITION: no later than 30.6.2022.

APPLICATION: from 1.7.2022.