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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL IMPLEMENTING DECISION authorising Germany and Poland to introduce a special measure derogating from Article 5 of Directive 2006/112/EC on the common system of value added tax

COUNCIL IMPLEMENTING DECISION (EU) 2018/...

of ...

**authorising Germany and Poland to introduce a special measure
derogating from Article 5 of Directive 2006/112/EC
on the common system of value added tax**

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 tax¹, and in particular Article 395(1) thereof,

Having regard to the proposal from the European Commission,

¹ OJ L 347, 11.12.2006, p. 1.

Whereas:

- (1) By letters registered with the Commission on 9 January 2018 and 22 January 2018, respectively, Germany and Poland requested authorisation to introduce a special measure derogating from the provisions of Directive 2006/112/EC in relation to the construction of a new bridge between Küstrin-Kietz and Kostrzyn nad Odrą.
- (2) By letters dated 5 March 2018, the Commission transmitted the request made by Germany and Poland to the other Member States. By letters dated 6 March 2018, the Commission notified Germany and Poland that it had all the information necessary to consider the request.
- (3) In accordance with an agreement to be concluded between Germany and Poland, the area of the works on the demolition of the existing border bridge and construction of a new bridge between Küstrin-Kietz and Kostrzyn nad Odrą should be considered, with respect to value added tax ('VAT'), as forming part of the territory of Poland, insofar as the supplies of goods and services, the intra-Community acquisitions and imports of goods are destined for the execution of those works.

- (4) Germany and Poland take the view that the tax provisions of the agreement are justified in order to simplify the procedure for complying with VAT obligations. Without such provisions, it would be necessary to break down transactions on the basis of the territory on which they are carried out, which would involve tax complications for contracting companies responsible for the works.
- (5) Considering that the special measure simplifies the procedure for collecting VAT, and that it could only affect the overall amount of the tax revenue of the Member States collected at the stage of final consumption to a negligible extent, it is appropriate to derogate from the provisions of Directive 2006/112/EC and to provide that, for VAT purposes, all supplies of goods and services, intra-Community acquisitions and imports of goods destined for the demolition of the existing border bridge and construction of a new border bridge between Küstrin-Kietz and Kostrzyn nad Odrą are carried out in the territory of Poland and thus would be subject to Polish VAT.
- (6) The derogation has no impact on the Union's own resources accruing from VAT,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Article 5 of Directive 2006/112/EC, Germany and Poland are authorised to treat the area of the construction site of the border bridge between Küstrin-Kietz and Kostrzyn nad Odrą as forming part of the territory of Poland for the purposes of supplies of goods and services, intra-Community acquisitions and imports of goods intended for the demolition of the existing border bridge and the construction of a new border bridge.

Article 2

This Decision is addressed to the Federal Republic of Germany and the Republic of Poland.

Done at Brussels,

For the Council
The President
