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'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
No. Cion doc.:	8780/18 + COR 1 - COM(2018) 261 final
Subject:	Draft COUNCIL DIRECTIVE amending Directives 2006/112/EC and 2008/118/EC as regards the inclusion of the Italian municipality of Campione d'Italia and the Italian waters of Lake Lugano in the customs territory of the Union and in the territorial application of Directive 2008/118/EC – Adoption

1. On 8 May 2018, the Commission presented a Proposal for a Council Directive amending Directives 2006/112/EC and 2008/118/EC as regards the inclusion of the Italian municipality of Campione d'Italia and the Italian waters of Lake Lugano in the customs territory of the Union and in the territorial application of Directive 2008/118/EC¹.
2. The Italian municipality of Campione d'Italia (an Italian exclave in the territory of Switzerland) and the Italian waters of Lake Lugano should be included in the territorial scope of Council Directive 2008/118/EC² for the purposes of excise duty as, at Italy's request, those territories will be included in the customs territory of the Union³ because the historical reasons justifying the exclusion of those territories, such as their isolation and economic disadvantages, no longer apply.

¹ Doc. 8780/18 + COR 1.

² Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC (OJ L 9, 14.1.2009, p. 12).

³ See interinstitutional file No. 2018/0123(COD).

3. However, Italy wants to leave those territories outside the territorial scope of Council Directive 2006/112/EC⁴ for the purposes of value added tax, as this is essential to maintain a level playing field between economic operators established in Switzerland and in the Italian municipality of Campione d'Italia through the application of a local indirect taxation regime in line with the Swiss value added tax system.
4. The European Economic and Social Committee has delivered its opinion on this legislative proposal on 11 July 2018⁵, the opinion of the European Parliament has been delivered on 2 October 2018.⁶
5. The text resulting from discussions among delegations of Member States which could all, at the level of the Working Party on Tax Questions, support that Directives 2006/112/EC and 2008/118/EC are amended accordingly, was submitted for legal-linguistic review. The outcome of this work is set out in doc. 14487/18 FISC 494 ECOFIN 1084 UD 289.
6. The Permanent Representatives Committee is therefore invited to suggest that the Council:
 - adopt, as a "I/A" item on the agenda of a forthcoming meeting, the **Council Directive amending Directives 2006/112/EC and 2008/118/EC as regards the inclusion of the Italian municipality of Campione d'Italia and the Italian waters of Lake Lugano in the customs territory of the Union and in the territorial application of Directive 2008/118/EC**, as finalised by the legal/linguistic experts in doc. 14487/18 FISC 494 ECOFIN 1084 UD 289.

⁴ 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).

⁵ OJ C 367, 10.10.2018, p. 117.

⁶ P8_TA(2018)0362.