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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DIRECTIVE amending Directives 2008/118/EC and (EU) 2020/262 as regards tax-free shops situated in the French terminal of the Channel Tunnel

COUNCIL DIRECTIVE (EU) 2022/...

of ...

amending Directives 2008/118/EC and (EU) 2020/262

as regards tax-free shops situated in the French terminal of the Channel Tunnel

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 Parliament¹,

Having regard to the opinion of the European Economic and Social Committee²,

Acting in accordance with a special legislative procedure,

¹ Opinion of 9 March 2022 (not yet published in the Official Journal).

² Opinion of 23 February 2022 (not yet published in the Official Journal).

Whereas:

- (1) Article 14(1) of Council Directive 2008/118/EC¹ allows Member States to exempt from payment of excise duty excise goods supplied in tax-free shops situated in Union airports and ports for sale to travellers to a third territory.
- (2) The Channel Fixed Link is a twin bored tunnel rail link, under the English Channel between Coquelles (Pas-de-Calais, France) and Folkestone (Kent, United Kingdom). It has an associated service tunnel and terminal areas at either end for control of access to, and egress from, the tunnels. Due to those infrastructures, it has the characteristics of a maritime link between France and the United Kingdom, with border controls at the two access terminals. The maritime link and the Channel Fixed Link enable a English Channel crossing under the same conditions.
- (3) The French terminal of the Channel Fixed Link in Coquelles should therefore be considered equivalent to a port for purposes of Article 14 of Council Directive 2008/118/EC.

¹ 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).

- (4) Due to the United Kingdom's withdrawal from the Union which led to the opening of tax-free shops in the ports of Calais and Dunkirk and in the UK terminal of the Channel Fixed Link in Folkestone, it is appropriate to authorise the opening of tax-free shops in the French terminal of the Channel Fixed Link in Coquelles.
- (5) Given that passengers using the Channel Fixed Link cannot exit it until they reach the destination, the risk of non-compliance with the excise duty and tax free import allowances and consequently the control burden for the customs authorities will be limited. However, to prevent any evasion, avoidance or abuse, France should take the measures necessary to ensure the proper application of the tax exemption in the tax-free shops of the French terminal of the Channel Fixed Link in Coquelles.
- (6) Given that Council Directive (EU) 2020/262¹ repeals and replaces Directive 2008/118/EC with effect from 13 February 2023, the corresponding provision in Directive (EU) 2020/262 should also be amended.
- (7) Directives 2008/118/EC and (EU) 2020/262 should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

¹ Council Directive (EU) 2020/262 of 19 December 2019 laying down the general arrangements for excise duty (OJ L 58, 27.2.2020, p. 4).

Article 1
Amendment to Directive 2008/118/EC

Article 14 of Directive 2008/118/EC is amended as follows:

(1) the following paragraph is inserted:

'1a. The exemption provided for in paragraph 1 shall also apply to excise goods supplied by tax-free shops situated in the French terminal of the Channel Tunnel in Coquelles to passengers holding transport documents which are valid for a journey to the United Kingdom through the Channel Fixed Link.';

(2) paragraph 3 is replaced by the following:

'3. Member States shall take the measures necessary to ensure that the exemptions provided for in paragraphs 1, 1a and 2 are applied in such a way as to prevent any possible evasion, avoidance or abuse.'.

Article 2
Amendment to Directive (EU) 2020/262

Article 13 of Directive (EU) 2020/262 is amended as follows:

(1) the following paragraph is inserted:

'1a. The exemption provided for in paragraph 1 shall also apply to excise goods supplied by tax-free shops situated in the French terminal of the Channel Tunnel in Coquelles to passengers holding transport documents which are valid for a journey to the United Kingdom through the Channel Fixed Link.';

(2) paragraph 3 is replaced by the following:

'3. Member States shall take the measures necessary to ensure that the exemptions provided for in paragraphs 1, 1a and 2 are applied in such a way as to prevent any possible evasion, avoidance or abuse.'.

Article 3
Transposition

1. Where a Member State decides to apply the exemption provided for in Article 14(1) of Directive 2008/118/EC in accordance with Article 1 of this Directive or the exemption provided for in Article 13(1) of Directive (EU) 2020/262 in accordance with Article 2 of this Directive, and adopts the laws, regulations and administrative provisions necessary to give effect to this Directive, it shall immediately inform the Commission of measures taken pursuant to this Directive.
2. When a Member State adopts those measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

Article 4

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

Article 5

This Directive is addressed to the Member States.

Done at ...,

For the Council

The President
