

**CONCLUSIONS
ON THE TAX SYSTEM
APPLICABLE TO THE CHANNEL FIXED LINK
AS OF 1 JANUARY 2021**

The European Affairs Committee,

Having regard to Articles 107, 113 and 263 of the Treaty on the Functioning of the European Union (TFEU),

Having regard to Article 14 of Directive 2008/118/EC concerning the general arrangements for excise duty, redrafted in Article 13 of Directive 2020/262 laying down the general arrangements for excise duty,

Having regard to Recital 17 of the same Directive,

Having regard to Article 158 of Directive 2006/112/EC on the common system of value added tax,

Having regard to Article 28 of Directive 92/12/EEC, specified in paragraph 5 of the introduction of the Commission's final report COM(96) 245 on point-of-sale monitoring systems,

Having regard to the EU-UK Withdrawal Agreement signed on 17 October by the United Kingdom and the European Union,

Having regard to Article 9.4 of the Treaty of Canterbury signed on 12 February 1986 by France and the United Kingdom,

Having regard to the quadripartite Concession Agreement signed in Paris on 14 March 1986, in particular Article 29.3 thereof,

Having regard Article 302-F *bis* and the first paragraph of Article 302-F *ter* of the *Code général des impôts* (General Tax Code),

Considering that Directive 92/12/EEC recognised the specific status of the Channel Fixed Link (CFL) and likened its situation with that of a port or an airport;

Considering that Directives 2008/118/EC and 2006/112/EC exclude land borders from the tax-free sales system only on the grounds that “Persons travelling over land can move more frequently and more freely as compared to persons travelling by boat or aircraft”, which is not the case of persons travelling through the CFL;

Considering that the disappearance, in Directives 2008/118/EC and 2006/112/EC, of the reference to a specific status for the CFL can be justified solely on account of the fact that the United Kingdom was then a member of the European Union;

Considering that the United Kingdom’s withdrawal from the European Union represents a change of circumstances requiring, as a result, new interpretation of these directives in order to avoid introducing in their foundations a distortion of competition which would infringe internal market rules;

Considering that a review of these directives would be needed to harmonise the tax system applicable to ports, airports and customs zones of direct international railway connections but that the related legislative process could last several years, whereas the risk of distortion of competition is imminent between, on the one hand, the CFL and the Port of Calais and, on the other hand, its French terminal (Coquelles) and its British terminal (Folkestone);

Considering that the European Commission has not, to this day, publicly drawn the consequences for the interpretation of Article 14 of Directive 2008/118/EC and of Article 158 of Directive 2006/112/EC of the United Kingdom’s withdrawal from the European Union;

Considering that the time limit has passed to bring an action for annulment before the CJEU in order for it to rule if a literal implementation of these directives, as drafted before *Brexit*, would still comply with EU law,

- 1) States that the same tax system should apply to the Channel Fixed Link as to the Port of Calais, including in case the latter were to benefit, after 1 January 2021, from the possibility of opening up tax-free shops – the intent being to prevent any distortion of competition between operators working under the same relevant market;
- 2) Calls on the Commission to confirm, through an interpretation letter, that Directive 2008/118/EC does not hinder this possibility;

- 3) In case this confirmation were not to be received in time, calls on the French government, in accordance with its commitments arising from the Treaty of Canterbury and the quadripartite Concession Agreement, to allow the company managing the Channel Fixed Link to open up tax-free shops in the same conditions as the ones applicable to its port competitors.