



EUROPEAN COMMISSION

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Dear Speaker,

The Commission would like to thank the Riksdag for its Opinion on the proposal for a Council Directive amending Directive 2006/112/EC as regards conferral of implementing powers to the Commission to determine the meaning of the terms used in certain provisions of that Directive {COM(2020) 749 final}.

This proposal was announced by the Commission in its 15 July 2020 Communication on an Action Plan for Fair and Simple Taxation supporting the Recovery Strategy {COM(2020) 312 final}. An amendment of the Directive 2006/112/EC (hereinafter: 'the VAT Directive') has thus been proposed in order to create a committee that would oversee the adoption of implementing acts by the Commission in certain limited areas of VAT where uniform application of the concepts in the VAT Directive is needed.

Indeed, the non-uniform application of certain provisions of the VAT Directive between the Member States hampers the smooth functioning of the internal market. Such discrepancies are likely to lead to issues of double taxation or non-taxation, and consequently to distortions of competition in the internal market, legal uncertainty and additional costs for both businesses and national tax administrations.

The Commission welcomes the support of the Riksdag for the objective of the proposal of promoting the smooth functioning of the single market by seeking a uniform interpretation of the VAT Directive in all Member States.

At the same time, the Commission takes note of the reservations expressed by the Riksdag as regards the adoption of implementing acts in the area of taxation through comitology procedure and qualified majority at European level. In the reasoned Opinion of the Riksdag, the Commission's proposal exceeds what is necessary to achieve its objectives and conflicts thus with the principle of subsidiarity.

The Commission believes that the proposal is consistent with the principle of subsidiarity as the main problem that has been identified is precisely the non-harmonised application

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by the Member States of concepts to be found in the VAT Directive, which are likely to lead to double or non-taxation, in particular in cross-border situations. It is not possible for Member States alone to address these problems.

The fact that certain implementing powers are conferred on the Commission will allow addressing more quickly and efficiently situations that are the result of differences in interpretation and which cause problems for businesses. In this, the Commission will be assisted by a committee, which shall consist of VAT experts from the Member States' tax administrations and which will therefore be well placed to deal consistently and swiftly with the problems.

The proposal envisages the adoption of implementing acts by the Commission only in relation to a limited set of rules implementing the provisions of the VAT Directive, for which a uniform application of the concepts in the EU VAT legislation is required. Any change to the VAT Directive shall require, as it is currently the case, a unanimous agreement in the Council. The Council shall, in turn, retain its implementing powers insofar as they do not fall within the strictly delimited scope of the Commission's competences, and particularly on substantial matters especially sensitive for the Member States. In the absence of such uniform application, problems such as double taxation or non-taxation will persist, to the detriment of the smooth functioning of the internal market.

Finally, it should also be noted that qualified majority voting and comitology procedures are already used in indirect taxation, in particular for administrative cooperation and excise duties. Comitology is the long standing standard approach used in EU Law for facilitating the emergence of a common view and practice.

The Commission hopes that the clarifications provided in this reply address the issues raised by the Riksdag and looks forward to continuing the political dialogue in the future.

Yours faithfully,

*Maroš Šefčovič
Vice-President*

*Paolo Gentiloni
Member of the Commission*