Defence effort within the Union framework: common system of value added tax and general arrangements for excise duty

2019/0096(CNS) - 24/04/2019 - Legislative proposal

PURPOSE: to align VAT and excise duty as regards defence effort within the Union and NATO.

PROPOSED ACT: Council Directive.

ROLE OF THE EUROPEAN PARLIAMENT: the Council adopts the act after consulting the European Parliament but without being obliged to follow its opinion.

CONTENT: Council Directive 2006/112/EC provides, under certain conditions, an exemption from value added tax (VAT) for goods and services supplied to and goods imported by the armed forces of any State party to the North Atlantic Treaty when such forces are taking part in the common defence effort outside their own State.

Council Directive 2008/118/EC (Excise Directive) provides an exemption from excise duty for excise goods intended to be used by the armed forces of any State party to the North Atlantic Treaty (NATO).

These exemptions are not possible when the armed forces of a Member State are involved in activities under the Common Security and Defence Policy (CSDP) because there is as yet no common EU defence policy. However, the CSDP - created as the European Security and Defence Policy (ESDP) in 2000 - is a key instrument for external action and includes the progressive definition of a common defence policy for the Union.

In their joint communication of 28 March 2018 on the Action Plan on Military Mobility, the High Representative of the Union for Foreign Affairs and Security Policy and the Commission recognised the overall need for harmonisation of the VAT treatment of defence efforts within the Union and under the aegis of the North Atlantic Treaty Organisation (NATO).

On 19 November 2018, the Council concluded on Security and Defence in the context of the EUGS. In particular, the Council welcomed the progress in the implementation of the Permanent Structured Cooperation (PESCO) and the ongoing implementation of efforts to improve the mobility of military personnel, materiel and equipment for routine activities and during crisis and conflict, within and beyond the EU.

IMPACT ASSESSMENT: the CSDP activities that shall be covered by the exemptions are as follows: military missions and operations; battlegroups; mutual assistance; PESCO; European Defence Agency (EDA) activities.

In 2014, expenditure on outsourced operations and maintenance in all Member States (except Denmark) amounted to EUR 5.3 billion.

The Commission considers that a maximum of 10 % of the overall amount (EUR 530 million) could either become VAT-exempt under the new rules or would already be covered by the exemption for NATO activities. This concerns supplies of goods (e.g. food, fuel, special liquids, equipment, pharmaceutical provisions, electricity, water, gas) and services (e.g. catering, communication, maintenance, repair, transportation, road charges).

CONTENT: in line with the Commission's commitment in the Action Plan on Military Mobility, this proposal to amend the VAT and Excise Directives aims to harmonise, as far as possible, the VAT and excise-duty treatment of defence efforts within the EU and under NATO frameworks. The arrangements for exemptions from excise duties, as provided for in the Excise Directive, should be aligned in a similar way.

In concrete terms, the proposal:

- ensures that the use of goods by Member States’ armed forces taking part in the defence effort carried out for the implementation of a Union activity under the CSDP will be treated as an intra-EU acquisition for consideration where those goods, which have not been purchased under the local VAT rules of the Member State in which the forces are stationed, are brought back and used by those forces for their needs or for their accompanying civilian staff in their own Member State;
- introduces a VAT exemption for the importation of goods into Member States by the armed forces of other Member States taking part in a defence effort carried out for the implementation of a Union activity under the CSDP, where the goods are for the use of those forces or accompanying civilian staff or for supplying their messes or canteens;
- introduces an excise-duty exemption for defence effort carried out for the implementation of a Union activity under the CSDP. The exemption will cover supplies of excise goods to the armed forces of any Member State other than that in which the excise duty is chargeable, for the use of those forces or accompanying civilian staff, or for supplying their messes or canteens where such forces are taking part in a defence effort carried out for the implementation of a Union activity under the CSDP.

Only expenses incurred in respect of tasks directly linked to a defence effort should be eligible for exemption. Tasks performed exclusively by civilian staff or performed exclusively by using civilian capabilities should not be covered by the exemption.

Nor should the exemption cover items such as spare parts to military equipment or transport services that the armed forces of a Member State acquire for use within that Member State or extend to the construction of transport or communication and information systems infrastructures.

BUDGETARY IMPLICATIONS: by extending the scope of VAT exemptions, the proposal could reduce VAT revenue collected by Member States and therefore the VAT own resource. As the own resource based on gross national income (GNI) compensates for any expenditure not covered by traditional own resources and the VAT own resource, the non-collected VAT own resources from certain Member States would have to be compensated by all Member States through the GNI own resource. Excise duty is not an own resource. Therefore, there are no implications for the Union budget.