EUROPEAN COMMISSION
DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION
Indirect Taxation and Tax administration
Value added tax

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Brussels, 29 May 2017

VALUE ADDED TAX COMMITTEE
(ARTICLE 398 OF DIRECTIVE 2006/112/EC)
WORKING PAPER NO 925 FINAL

MINUTES

108TH MEETING
– 27 AND 28 MARCH 2017 –

The Chair welcomed the delegations to the 108th meeting of the VAT Committee.

Procedural and housekeeping points

Language regime: It was possible to speak in and listen to FR-DE-EN-ES-IT-PL.

The secretariat of the VAT Committee should be notified in a timely manner about any staff changes that affect the composition of national delegations and the access rights to the CIRCABC site.

Next meeting: The next meeting will probably take place at the beginning of December 2017.

Topical issues in the Council

The Chair briefly mentioned the latest developments in Council:

- E-commerce: The discussions on the proposal are progressing well. The following meeting was scheduled for 4 April 2017.

- Generalised Reverse Charge: The proposal was put on the agenda of the ECOFIN Council meeting of 21 March 2017 in order to exchange views and give orientations on the approach to take in future discussions of the Working Party on Tax Questions.

- VAT rates for e-publications: The proposal was also discussed in the ECOFIN Council meeting of 21 March and is to be taken up again in the Working Party on Tax Questions to continue the technical work.

Other topical issues

- Fiscalis 2020 Workshop on "Review of the special scheme for small enterprises under the VAT Directive 2006/112/EC" in Wrocław on 20-22 March 2017: The Chair thanked the Polish delegation for their administration's successful organisation of the Workshop. The Workshop had been an opportunity for exchanges between administrations and other stakeholders from which the Commission services had taken home important input for the preparation of their legislative proposal for a comprehensive simplification package for SMEs.

1. ADOPTION OF THE AGENDA
(Document taxud.c.1(2017)1563116 REV)

The agenda was adopted as proposed. Changes in the order of treatment of a number of agenda points were explained and agreed.

2. REPORT ON THE RESULTS OF THE WRITTEN PROCEDURES

The Chair stated that the minutes of the 107th meeting of 8 July 2016 had been agreed in written procedure with comments sent by one delegation regarding the quality of the machine translation into German.

As to the sets of guidelines already agreed in written procedure, these were all made available on CIRCABC and had also been made available on the Directorate General's public website. All guidelines resulting from the last meeting had been agreed, however, a very limited number of written procedures on guidelines from previous meetings are still on hold.

A consultation request by Croatia pursuant to Article 102 of the VAT Directive had been successfully concluded in written procedure on 16 January 2017.

3. INFORMATION POINTS

The Chair informed delegations that contrary to previous meetings there was nothing particular to report back from OECD activities on VAT issues.

4. NEW LEGISLATION – MATTERS CONCERNING THE IMPLEMENTATION OF RECENTLY ADOPTED EU VAT PROVISIONS

4.1 Origin: Commission
References: Article 58 and Annex II of the VAT Directive
Article 7 and Annex I of the VAT Implementing Regulation
Subject: VAT 2015: Scope of the notion of electronically supplied services; minimal human intervention (second follow-up)
(Document taxud.c.1(2017)1270284 – Working paper No 919)

The Commission services introduced the Working paper. Delegations were reminded of the work that had already been undertaken with regard to the issue. Following first discussions during the 102nd meeting guidelines were agreed in Working paper No 862 FINAL regarding the notion of electronically supplied services. These guidelines contained first indicators to help assess whether there is only "minimal human intervention" in a supply which is one of the essential elements to qualify a service as an electronically supplied service.

On the basis of Working paper No 896, an exchange of views in the 106th meeting followed up on those initial discussions. Possible additional indicators were presented and the notion of "minimal human intervention" was further analysed. During the exchanges it was remarked that Working paper No 896 focused too much on online gambling services whilst more examples were needed from different sectors to better capture the meaning of "minimal human intervention". The Commission services therefore invited delegations after that meeting to contribute with additional examples from their experience.

The present Working paper No 919 in its section 2 sets out the indicators agreed in the guidelines resulting from the 102nd meeting and the further indicators mentioned

in Working paper No 896. Section 3 of the Working paper presents a set of 14 additional examples provided by delegations and analyses them with the help of the indicators already agreed or developed to test whether these are robust and whether other indicators could be identified in addition. At the end of the Working paper three additional indicators for "minimal human intervention" were presented taking into account the analysed examples.

The Chair thanked delegations who had submitted examples for analysis in the Working paper and then opened the floor for discussions.

Less than half of the delegations took the floor. Apart from some comments on specific examples in the Working paper there was overall agreement with the Commission services' analysis. One delegation specifically agreed to the drafting of guidelines but voiced caution that these should not be overly prescriptive considering that services were continuously developing.

The Chair concluded that the drafting of guidelines would be attempted taking into account the remarks made during the discussions.

4.2 Origin: Commission
Subject: VAT treatment of vouchers
(*oral exchange*)

The Commission services had arranged for an oral exchange in order to facilitate transposition by Member States of Council Directive (EU) 2016/1065 into their national law.

Delegations discussed between them a number of issues raised as to the interpretation of that Directive as regards the VAT treatment of vouchers whose provisions will be applicable from 1 January 2019.

5. QUESTIONS CONCERNING THE APPLICATION OF EU VAT PROVISIONS

5.1 Origin: Denmark
Reference: Article 132(1)(b) and (c)
Subject: VAT treatment of fertility treatments
(Document taxud.c.1(2017)751354 – Working paper No 916)

The Commission services presented the Working paper that had been drafted following a request from Denmark. The Danish authorities asked to which extent fertility treatment is covered by the exemption of Article 132 of the VAT Directive. They explained that their national case-law had resulted in a practice by which fertility treatment can only be exempted in certain cases. An ongoing debate at national level, however, was strongly advocating a general exemption for fertility treatments and therefore the Danish authorities were also interested in hearing other delegations' views on the issue.

The Commission services reminded delegations of previous discussions in the VAT Committee with regard to the exemption for medical care and specifically the exchanges held on cosmetic surgery for which it also had been difficult to delimit

the cases where the granting of the exemption could be seen in line with the wording of the provisions of the VAT Directive. The Commission services stressed that, given that the pertinent VAT legislation dates from 1977 and medical science and technology had in the meantime evolved considerably, interpretation issues had become inevitable. The doctrine derived from rulings of the Court of Justice of the European Union (CJEU), however, clearly demanded a strict interpretation of the exemptions and therefore caution and unanimity would be needed in order to agree on a broader approach.

The Chair invited the Danish delegation to take the floor. The Danish delegation thanked the Commission services for their analysis of the issues tabled and stated that they were particularly content that the Commission services shared their view that the exemption could apply even when the fertility treatment is given to the partner in a heterosexual couple who does not suffer from infertility or reduced fertility. They insisted, however, that the exemption should also be extended to cover single women or women in a homosexual relationship with no indication of infertility/reduced fertility.

In the ensuing discussions less than half of the delegations asked for the floor. The majority of them favoured a broad application of the exemption for fertility treatments, even in cases where no medical condition exists. A few delegations, however, stated that the wording of the Directive should be respected and that fertility treatments should be exempt for medical reasons only.

The Chair concluded that delegations seemed to be in favour of a broad application of the exemption and announced that the Commission services would proceed with drawing up guidelines on the issue, paying particular attention to ensuring a unanimously agreed line.

5.2 Origin: France
Reference: Article 135(1)(b)
Subject: Possible qualification of advisory services by credit intermediaries as negotiation of credit
(Document taxud.c.1(2016)6870737 – Working paper No 912)

The Commission services introduced the Working paper established in response to a request from France. The scenario submitted by the French authorities for analysis and discussion is the following: A taxable person, the "credit intermediary", supplies financial advisory services in respect of credits relating to immovable property to his client, a potential borrower. The financial advice would consist in making personal recommendations to the client in view of the client's signing of a mortgage contract with a third party credit provider, for example a bank. Such financial advice would be part of preparatory work leading to the negotiation of credit and independent from the conclusion of a possible mortgage agreement with a third party. The "credit intermediary" in this scenario gives his advice to the borrower independently and does not act as a mediator between the parties to the credit contract.

The Commission services had arrived at the conclusion that considering the current VAT provisions and the pertinent case-law it would seem that the "credit intermediary" in the scenario at hand provides financial advice only and that

therefore the exemption pursuant to Article 135(1)(b) of the VAT Directive cannot be granted on the basis of it constituting "negotiation of credit". "Negotiation of credit" which could be exempted would require a distinct act of mediation between the two parties to a credit contract which is not the case in the scenario at hand.

If, however, the "credit intermediary" acted as an intermediary between the two parties to the credit contract his provision of financial advice could be seen as ancillary to an exempt principal supply which consists in the negotiation of credit and could thus also be exempted.

The Chair invited the French delegation to take the floor. The French delegation explained the context that had triggered their question and thanked the Commission services for having taken it up.

Several other delegations contributed to the exchange with some stating that they shared the Commission services' analysis. One delegation pointed out that their national rulings on the matter were contrary to the position taken by the Commission services.

In reply to doubts voiced, the Commission services remarked that in their view it is not important for the VAT treatment whether a credit agreement is finally concluded or not. Negotiation that in the end does not lead to a credit contract could still fall under negotiation of credit and could be exempted. They further underlined that there is no legal basis to exempt mere advisory services under Article 135(1)(b) unless provided in the context of a distinct act of intermediation, as already explained.

Concluding, the Chair stated that the preparation of guidelines might be useful.

5.3 Origin: Commission
References: Articles 2(1)(c) and 135(1)(b) and (d)
Subject: VAT treatment of transactions involving non-performing loans (NPLs)
(Document taxud.c.1(2017)829746 – Working paper No 917)

The Commission services briefly presented the Working paper which they had prepared at their own initiative in order to discuss and assure a consistent VAT treatment of transactions dealing with non-performing loans (NPLs) which are still a common feature in the aftermath of the economic crisis. They explained that the Working paper looks into the VAT treatment of the sale of NPLs from the point of view of the seller and from that of the purchaser as well as that of services consisting in the management of NPLs that are supplied by so-called servicing companies to holders of NPLs. For all cases an assessment is carried out whether there is a taxable supply of services and, if that is found to be the case, it is examined whether an exemption pursuant to Article 135(1) could be applicable.

Following the presentation a short discussion took place with the participation of several delegations that shared the analysis of the Commission services and also made some remarks on specific points or asked for clarifications.

The Chair announced the drafting of guidelines that would also try to address the issues raised during discussions.

5.4 Origin: Commission
Reference: Article 11
Subject: Meaning of "financial, economic and organisational links" among VAT group members
(Document taxud.c.1(2017)982178 – Working paper No 918)

The Commission services gave their introduction to the Working paper. They explained that it had been established in follow-up to the in-depth discussions held during the Fiscalis 2020 Seminar on "Modernising VAT Groups" in Dublin in September 2016 which had brought together representatives of national administrations in the Group on the Future of VAT (GFV) and business representatives who are members of the VAT Expert Group (VEG).

The conclusions at the Seminar had been that more clarity was needed on how to interpret the provisions in Article 11 of the VAT Directive after some recent rulings handed down by the CJEU that partly run counter to what the Commission had expressed in its Communication on VAT Grouping in 2009. There had been consensus among Seminar participants that before contemplating possible legislative changes to the grouping provisions in the VAT Directive updated guidance on how to understand the concept of "financial, economic and organisational links" should be prepared as a short-term realistic goal in order to provide more legal certainty for both businesses and tax administrations.

After the CJEU's judgments it was clear that the bar had to be lowered as to the minimum conditions for determining the existence of a financial link between VAT group members. The Working paper therefore sought to suggest what could be options for the minimum content of the financial link test and possible presumptions for the assessment of such link. The Working paper also examined the economic and organisational links with the objective to clarify their meaning. The Commission services expressed that this requirement in the VAT Directive is a threefold cumulative condition, and that the three links have to be assessed separately.

In the ensuing discussions less than half of the delegations asked for the floor with some of them intervening more than once.

As to the Commission services' approach of the issue as such, delegations were split in two groups. One group disagreed that there should be uniform EU-wide tests with regard to the links and insisted that the definition of links should be done at national level. They held that harmonisation could only be brought about by legislative changes and not by guidance. It was also said that, while agreeing with the fact that the three links have to be simultaneously present, it would be better to define one condition which could cover all of them, rather than laying down three different definitions (one for each link). The other group followed the Commission services in that it was appropriate to seek to define minimum standards and concurred that all three links mentioned in the VAT Directive should be assessed.

The Chair in response to a number of remarks reiterated that at the Fiscalis 2020 Seminar there had been demands expressed for clarification and a wish for guidance

expressed by both Member States and businesses. As the matter concerned the interpretation of existing rules, the VAT Committee, and not the GFV, was the appropriate forum for exchanges with the national administrations. The Commission services also intended to discuss the Working paper at the next meeting of the VEG. Further, concerning the links tests, reading Article 11 of the VAT Directive it was evident that the existence of financial, economic and organisational links was meant as a cumulative requirement. With intra-group transactions falling outside the scope of VAT, obviously there should be a minimum of requirements to be met for forming a VAT group and Member States could not do whatever they wished in that matter.

During the second part of the exchanges, several delegations took the floor to comment on the concrete options and presumptions as set out by the Commission services in the Working paper. In response to the remarks, the Chair gave clarifications and also stated to take good note of the different opinions expressed.

No firm conclusions could be drawn from the difficult discussions. The Commission services would reflect on how to take this further and all delegations were invited to send comments. Discussions with stakeholders on the issue would take place in the VEG meeting on 24 April 2017.

5.5 Origin: Commission
References: Articles 2(1), 72, 73, 80, 83 and 85
Subject: Possible VAT implications of Transfer Pricing
(Document taxud.c.1(2017)1280928 – Working paper No 923)

The Chair made a few introductory remarks explaining that the Working paper was on purpose kept high-level, without going into too much detail, to have a first exchange of views in order to gauge the interest of the delegations and their thinking regarding the relevance of the issue of transfer pricing with regard to VAT. In parallel, a "mapping exercise" was being conducted in the EU VAT Forum with representatives of national administrations and business stakeholders. It was also foreseen to bring the subject matter to the next meeting of the VEG.

The Commission services then presented the different parts of the Working paper.

Its section 2 is dedicated to the legal framework and the basic concepts of transfer pricing, such as the arm's length principle and transfer pricing adjustments either made by the tax administration or by the taxpayer, that are of potential interest from a VAT perspective.

Section 3.1 looks at the VAT provisions on the taxable amount (Article 73 of the VAT Directive) and the VAT Directive's equivalent to the arm's length principle (the open market value pursuant to Articles 72 and 80). According to the settled case-law of the CJEU, for VAT purposes the taxable amount for the supplies of goods or services is represented by the consideration actually received for them. The open market value has a much narrower scope than the arm's length principle for transfer pricing purposes in direct taxation and only applies under a set number of exhaustive conditions as an anti-avoidance measure which is to be considered an exception to the general rule.

Under section 3.2 it is assessed whether transfer pricing adjustments could have VAT implications. That might be the case where the transfer pricing adjustment could be regarded as higher or lower consideration given in exchange for a taxable supply already made that then leads to a modification of the taxable amount of that transaction for VAT purposes. A case-by-case analysis would need to establish whether there is a supply made in exchange for consideration and whether there is a direct link between the supply and the consideration. However, the general rule as regards the taxable amount is that laid down in Article 73 and therefore transfer pricing adjustments for direct taxation purposes should not all result in a modification of the VAT taxable amount as this would go against the spirit of the VAT Directive.

Finally, section 3.4 of the Working paper sets out guidance on what has to be kept in mind when discussing on the interaction between transfer pricing and VAT and the possible VAT implications of transfer pricing.

After the presentation the Chair invited comments from the delegations. Several delegations asked for the floor. There was consensus that the Working paper was most welcome as it raised awareness of the issue. The delegations that engaged in the discussions all stressed that there were no particular problems that had been brought to their attention and also reported that the rather keen interest in the subject matter shown by business stakeholders in the EU VAT Forum was then not followed up by them concretely with clarifications and examples of cases to discuss.

The Chair concluded the following:

- The Commission services had thought it necessary to bring the issue of transfer pricing to the VAT Committee for a first exchange.
- Transfer pricing could have an impact in some concrete cases, but those would be subject to a case-by-case assessment. In that respect it was noted that whilst business stakeholders had raised transfer pricing as an issue no concrete examples had yet been submitted for discussion. The subject matter would therefore be tabled at the next VEG meeting for exchanges.
- The Commission services for the time being would not produce additional Working papers on the issue unless delegations raised specific angles to assess more in depth. The present Working paper would, however, be put again on the agenda of the next VAT Committee as a reminder for delegations to reflect further and for the Commission services to report back from the feedback obtained in the VEG meeting.

5.6 Origin: Germany
Reference: Article 138
Subject: Substantive importance of the VAT identification number of the recipient (acquirer of the goods) for the exemption of intra-Community supplies
(Document taxud.c.1(2017)1395441 – Working paper No 921 REV)

The Commission services presented the Working paper established upon a request from Germany, already submitted in 2015, and explained that the discussion in the VAT Committee had been put on hold in the await of the ruling of the CJEU in case C-24/15, Plöckl, delivered on 20 October 2016. Further, this ruling had been

followed by another one on the same subject matter in case C-21/16, Euro-Tyre, delivered on 9 February 2017.

At the time that Germany transmitted the request two CJEU rulings dating back to September 2012 had already dealt with the importance of the VAT identification number in the context of intra-Community supplies (cases C-273/11, Mecsek-Gabona Kft, and C-587/10, VSTR). After the four aforementioned rulings on this issue the CJEU had made clear that in the context of intra-Community supplies of goods the communication of the VAT identification number of the acquirer of the goods constitutes a formal requirement as regards the right of the supplier to exempt his intra-Community supply. However, the supplier cannot be refused exemption on the grounds of not having provided the VAT identification number of the acquirer when the substantive conditions set out in Article 138(1) of the VAT Directive are met.

The Commission services concurred with the German delegation that the VAT identification number is for the supplier a means of proving that the acquirer is a taxable person acting as such in a Member State other than that where dispatch of the goods begins and that a missing VAT identification number from the acquirer should be a signal to the supplier that the transaction is risky. However, the VAT provisions as they currently stand do not leave room for a blanket refusal of granting exemption to the supplier when there is conclusive evidence that the substantive conditions of the exemption have been met. Only a change of the legislative provisions could enhance the status of the VAT identification number.

Notwithstanding the above, where fraud has occurred and the supplier has not acted in good faith, or has not taken all measures which can be reasonably required to satisfy himself that the transaction carried out had not resulted in a participation in VAT fraud, the tax authorities should refuse the exemption. Further, if the supplier is unable to produce the VAT identification number of the acquirer, Member States could impose appropriate and proportionate sanctions on that supplier for not having met this formal condition of the exemption.

The German delegation thanked the Commission services for having treated their question and for sharing their concerns as to the importance of the VAT identification number.

The Chair, after reminding delegates that the VAT Committee could only decide on guidelines but could not discuss legislative proposals, invited all the other delegations to voice their views.

Less than half of the delegations asked for the floor. They all shared the analysis made by the Commission services and the concerns uttered by the German delegation. Nearly all of them also expressly supported the drafting of guidelines and asked for a legislative proposal on the matter. A few delegations remarked that guidelines should be drafted with caution as not to undermine the CJEU rulings.

Concluding, the Chair announced that having taken note of all interventions and the concerns expressed the Commission services would draft a set of guidelines in a careful manner and would prepare a legislative proposal for adoption by the Commission during 2017.

* **5.7** Origin: Austria
References: Articles 2, 9, 13, 24(2) and 151
Subject: VAT treatment of the "EU SatCom project" by the European Defence Agency
(Document taxud.c.1(2017)1271091 – Working paper No 920)

[…]

5.8 Origin: Poland
References: Articles 167, 168, 173, 174, 184, 185 and 187
Subject: Adjustment of input VAT deduction where a taxable person is carrying out both economic activities and non-economic activities
(Document taxud.c.1(2017)1279716 – Working paper No 922)

The Commission services introduced the Working paper that had been drafted upon a request by Poland. The Polish authorities sought clarification on the possibility of adjusting input VAT deduction where a taxable person performs economic activities as well as non-economic activities outside the scope of VAT, such as activities performed in his capacity of a public authority or the activities of associations and foundations which are not carried out for consideration. The Polish authorities asked concretely whether such a taxable person can perform a positive adjustment in his favour in respect of input VAT incurred on capital goods used partly for his economic and partly for his non-economic activities where the initially allocated part for economic activities has increased.

The Commission services stated that they fully shared the view of the Polish authorities that there is the obligation for a taxable person to perform a negative adjustment of the initially deducted input tax in cases where the initial use of the capital goods for business purposes decreases whilst in the opposite case of a later increase in the use of the capital goods beyond the initially allocated proportion no positive adjustment can be carried out.

They further explained that there is extensive case-law by the CJEU that the deduction scheme established by the VAT Directive relates to all economic activities, whatever their purpose or results, provided that they are themselves subject to VAT. Consequently, input VAT incurred by a taxable person on expenditure relating to non-economic activities, as these fall outside the scope of VAT, cannot give rise to the right of deduction of VAT. Additionally, where a taxable person simultaneously carries out economic activities (taxed or exempt) and non-economic activities falling outside the scope of VAT, deduction is allowed only to the extent that the expenditure in question is attributable to the taxable person's economic activity.

Article 167 of the VAT Directive provides for a right to deduct which arises at the time the deductible tax becomes chargeable which pursuant to Article 63 is the time when the goods (or services) are delivered. This means for the scenario submitted by Poland that only the capacity in which a person is acting at the time when the capital goods are delivered to him can determine the existence of the right to deduct. To

obtain a right to deduct in respect of these capital goods, the person has to be a taxable person and act as such at the time of their purchase.

When, for example, bodies governed by public law within the meaning of Article 13 of the VAT Directive at the time of their purchase of capital goods act as public authorities they shall not be regarded as taxable persons and therefore not have any right of deduction with regard to that purchase and thus no right to adjustment can arise.

According to the case-law of the CJEU the term "for purposes other than those of his business" in Article 26 of the VAT Directive has to be interpreted as meaning that the provision only applies where the goods concerned are put to private use and not where they are put to another use as part of a non-taxable activity. Activities which are outside the scope of VAT, such as those performed as a public authority or of associations and foundations which are not carried out for consideration and which constitute the main corporate purpose of a taxable person, cannot be considered as activities made "for purposes other than those of his business" within the meaning of Article 26.

Therefore, the settled case-law of the CJEU on the mixed use of capital goods and the option to allocate such assets wholly to the assets used as a taxable person, which in principle allows the input VAT to be deducted immediately and in full, cannot be transposed to the scenario submitted by Poland.

Upon invitation by the Chair, the Polish delegation took the floor to thank the Commission services for the analysis which they fully shared. They further remarked that whilst a provision in the VAT Directive regarding the issue was lacking there existed extensive case-law on the matter.

In the ensuing discussions several delegations intervened. Apart from a few delegations that shared the Commission services' analysis, all others which intervened advocated room for positive adjustments and pointed to Article 168a of the VAT Directive and the principle of neutrality. One delegation announced to transmit written input after the meeting.

The Commission services explained that the introduction of Article 168a had at the time been meant as a quick fix and that the Article had to be looked at together with the provisions in Article 26 with the same underlying concept and for which there exists settled case-law. Delegations were reminded that the principle of neutrality cannot change existing rules but can only apply to legislation as it stands and they were in this respect referred to the CJEU's ruling of 15 September 2016 in Potsdam-Mittelmark (case C-400/15).

The Chair concluded that the Commission services would reflect on the follow-up to be given to the issue considering that in light of the discussions unanimity a priori appeared to be excluded when trying to agree guidelines.

5.9 Origin: Commission
Reference: Article 211
Subject: VAT aspects of centralised clearance for customs upon importation
(Document taxud.c.1(2017)1561748 – Working paper No 924)

When introducing the agenda point, the Chair reminded delegations that the outcome of discussions of a Customs 2020 Project Group held on 13 March 2017 had had to be awaited before the Working paper could be finalised and was made available to the VAT Committee members on 14 March. Delegations had been informed in advance of the expected delay that deviated from the normally respected provisions in the VAT Committee's Rules of Procedure.

The Commission services briefly presented the Working paper. Under centralised clearance economic operators make customs declarations and pay customs duties in the supervising Member State. However, import declarations and the payment of import VAT have to be done in the Member State of presentation. The requirements regarding data, format and timescale for the submission of import VAT declarations are not harmonised and vary from one Member State to the other.

As explained in the Working paper, the Customs 2020 Project Group is discussing the development and deployment of an electronic system, "Centralised Clearance for Import" (CCI), whose launch is envisaged for 1 October 2020. Technical specifications will need to be agreed on by the second quarter of 2018. Once in place, the CCI system will provide for a harmonised and automated information exchange between national customs offices which should also include a harmonised solution for the exchange of VAT data providing that only the VAT taxable amount and the method of VAT payment should be communicated by the supervising Member State to the participating Member States. This data should be sufficient for the participating Member States to correctly assess and levy the import VAT due.

The Working paper was prepared 1) to inform the delegations of the state of play of discussions in that Customs 2020 Project Group with regard to the VAT solution of the CCI system and obtain their feedback and 2) to invite all delegations to send any updates or confirmation of correctness of the data concerning their national VAT payment and collection regimes as mentioned in the Annex to the Working paper to the Commission services by 30 April 2017.

In the ensuing exchange several delegations asked for the floor, mainly to provide first information on their national payment methods for import VAT. A number of delegations took the floor expressly to support the solution proposed as well as the additional recommendations set out in the Working paper.

Responding to a few specific questions, the Commission services explained the following: the supervising Member State cannot validate VAT rates of the participating Member States as all data would be automated and information on the VAT taxable amount and other information on the goods import (in particular CN codes) would be sufficient for the participating Member States to correctly assess and levy import VAT. One delegation commented that the participating Member State does need to know the VAT taxable amount per VAT rate in order to be able to levy import VAT and that the supervising Member State does not need to validate

VAT rates because this information only relates to value added taxation. The Commission services responded that the participating Member States have to require a separate import declaration from the importer for VAT purposes (except where import VAT can be paid in the VAT return as provided for in the second paragraph of Article 211 of the VAT Directive). Further, they explained that information on currency exchange rates would already be included in the customs declaration. The system would concern B2B supplies of big companies and was not meant for small consignments. With regard to excise duties, it was envisaged to exclude excisable goods from phase 1 of the project.

The Chair closed the discussions reminding all delegations to send their feedback regarding the data required by the deadline stipulated.

6. CASE LAW – ISSUES ARISING FROM RECENT JUDGMENTS OF THE COURT OF JUSTICE OF THE EUROPEAN UNION

6.1 Origin: Commission
Subject: Recent judgments of the Court of Justice of the European Union
(Document taxud.c.1(2017)1276391– Information paper)

Delegations took note of the Information paper. No delegation took the floor to request the assessment of a listed judgment.

7. ANY OTHER BUSINESS

7.1 Origin: Commission
Subject: Informing the VAT Committee of options exercised under Articles 80, 167a, 199 and 199a of Directive 2006/112/EC
(Document taxud.c.1(2017)1275987 – Information paper)

The Chair briefly drew delegations' attention to the Information paper regarding recently notified options exercised under Article 199a, thanked the delegations concerned and invited all delegations to notify without delay whenever necessary.

Conclusion

The Chair closed the meeting by thanking specifically the interpreters for their much appreciated contribution to the long meeting.

ANNEX

LIST OF PARTICIPANTS - LISTE DES PARTICIPANTS - TEILNEHMERLISTE

BELGIQUE/BELGIË/BELGIUM	Ministry of Finance
БЪЛГАРИЯ/BULGARIA	Ministry of Finance NRA
ČESKÁ REPUBLIKA/CZECH REPUBLIC	Ministry of Finance
DANMARK/DENMARK	Ministry of Taxation Customs and Tax Administration
DEUTSCHLAND/GERMANY	BMF Länderbeobachter (Bundesrat)
EESTI/ESTONIA	Ministry of Finance Permanent Representation
ÉIRE/IRELAND	Revenue Commissioners
ΕΛΛΆΔΑ/GREECE	Permanent Representation
ESPAÑA/SPAIN	Ministry of Finance Permanent Representation
FRANCE	Ministry of Finance
HRVATSKA/CROATIA	Ministry of Finance
ITALIA/ITALY	Agenzia delle Entrate Dipartimento delle Finanze
ΚΥΠΡΟΣ/CYPRUS	Ministry of Finance
LATVIJA/LATVIA	Ministry of Finance State Revenue Service
LIETUVA/LITHUANIA	Ministry of Finance
LUXEMBOURG	AED
MAGYARORSZÁG/HUNGARY	Ministry for National Economy Permanent Representation
MALTA	Ministry of Finance
NEDERLAND/NETHERLANDS	Ministry of Finance

ÖSTERREICH/AUSTRIA	Ministry of Finance
POLSKA/POLAND	Ministry of Finance Permanent Representation
PORTUGAL	Ministry of Finance
ROMÂNIA/ROMANIA	Ministry of Finance
SLOVENIJA/SLOVENIA	Ministry of Finance
SLOVENSKO/SLOVAKIA	Ministry of Finance
SUOMI/FINLAND	Ministry of Finance Tax Administration
SVERIGE/SWEDEN	Ministry of Finance Tax Agency
UNITED KINGDOM	HMRC

EUROPEAN COMMISSION