COMMISSION DECISION (EU) 2021/2313

of 22 December 2021

on relief from import duties and VAT exemption on importation granted for goods needed to combat the effects of the COVID-19 outbreak during 2022

(notified under document C(2021) 9852)

(Only the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Maltese, Polish, Portuguese, Romanian, Slovenian, Spanish and Swedish texts are authentic)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 2009/132/EC of 19 October 2009 determining the scope of Article 143(b) and (c) of Directive 2006/112/EC as regards exemption from value added tax on the final importation of certain goods ([1]), and in particular Article 53, first paragraph, thereof,

Having regard to Council Regulation (EC) No 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty ([2]), and in particular Article 76, first paragraph, thereof,

Whereas:

(1) Commission Decision (EU) 2020/491 ([3]) grants relief from import duties and exemption of value added tax ('VAT') on importation of goods needed to combat the effects of the COVID-19 outbreak until 31 December 2021.

(2) On 8 November 2021, the Commission consulted the Member States whether an extension was necessary, following which requests for further application of the measure providing for relief from import duties and exemption from VAT on imported goods were made by Austria, Belgium, Croatia, Greece, Hungary, Latvia, Poland, Portugal, Romania, Slovenia and Spain on 12 November 2021, Ireland on 16 November 2021, Bulgaria, Finland, Germany, Italy, Malta, the Netherlands and Sweden on 17 November 2021, Estonia on 18 November 2021, Denmark and Luxembourg on 19 November 2021 and Czechia on 23 November 2021 ('requesting Member States').

(3) The imports made by the requesting Member States under Decision (EU) 2020/491 have been beneficial in providing State organisations or approved organisations by the competent authorities in the Member States access to needed medicines, medical equipment and personal protective equipment, for which a shortage exists. Trade statistics for such goods indicate that the related importations are on a downward trend, but remain significant and fluctuate following the demand of goods needed to combat the COVID-19 pandemic. Despite the ongoing vaccination in the Member States and a number of measures taken to prevent the spread of the virus, the number of COVID-19 infections in the Member States still poses public health risks. As shortages of goods needed to combat the COVID-19 pandemic are still reported in the requesting Member States, it is appropriate to grant a relief for import duties chargeable on goods imported for the purposes described in Article 74 of Regulation (EC) No 1186/2009 and an exemption for VAT chargeable on goods imported for the purposes described in Article 51 of Directive 2009/132/EC.

(4) The requesting Member States should inform the Commission of the nature and quantities of the various goods admitted free of import duties and VAT with a view to combatting the effects of the COVID-19 outbreak, of the organisations they have approved for the distribution or making available of those goods and of the measures taken to prevent the goods from being used for purposes other than to combat the effects of this outbreak. The requesting Member States should ensure that such duty relief and VAT exemption are correctly applied in line with customs and VAT legislation and to prevent any fraud, evasion, avoidance or abuses.

([1]) OJ L 292, 10.11.2009, p. 5.
([2]) OJ L 324, 10.12.2009, p. 23.
([3]) Commission Decision (EU) 2020/491 of 3 April 2020 on relief from import duties and VAT exemption on importation granted for goods needed to combat the effects of the COVID-19 outbreak during 2020 (OJ L 103, 3.4.2020, p. 1).

(5) Taking into consideration the extreme challenges that the requesting Member States face, relief of import duties and exemption of VAT should be granted in respect of importations made from 1 January 2022. The relief should remain in place until 30 June 2022.

(6) On 3 December 2021, the Member States were consulted in accordance with Article 76, first paragraph, of Regulation (EC) No 1186/2009 and Article 53, first paragraph, of Directive 2009/132/EC,

HAS ADOPTED THIS DECISION:

Article 1

1. Goods shall be admitted free of import duties within the meaning of Article 2(1), point (a), of Regulation (EC) No 1186/2009 and exempted of value added tax (VAT) on the imports within the meaning of Article 2(1), point (a), of Directive 2009/132/EC, where the following conditions are fulfilled:

(a) the goods are intended for one of the following uses:

(i) distribution free of charge by the bodies and organisations referred to in point (c) to the persons affected by or at risk from COVID-19 or involved in combating the COVID-19 outbreak;

(ii) being made available free of charge to the persons affected by or at risk from COVID-19 or involved in combating the COVID-19 outbreak while remaining the property of the bodies and organisations referred to in point (c);

(b) the goods satisfy the requirements laid down in Articles 75, 78, 79 and 80 of Regulation (EC) No 1186/2009 and Articles 52, 55, 56 and 57 of Directive 2009/132/EC;

(c) the goods are imported for release for free circulation by or on behalf of State organisations including State bodies, public bodies and other bodies governed by public law or by or on behalf of organisations approved by the competent authorities in the Member States.

2. Goods shall also be admitted free of import duties within the meaning of Article 2(1), point (a), of Regulation (EC) No 1186/2009 and exempted of VAT on the imports within the meaning of Article 2(1), point (a), of Directive 2009/132/EC, where they are imported for release into free circulation by or on behalf of disaster relief agencies in order to meet their needs during the period they provide disaster relief to the persons affected by or at risk from COVID-19 or involved in combatting the COVID-19 outbreak.

Article 2

Member States shall communicate to the Commission information regarding the nature and quantities of the various goods admitted free of import duties and VAT pursuant to Article 1 monthly, on the fifteenth day of the month following the reporting month.

By 31 October 2022 at the latest, the Member States shall communicate to the Commission the following information:

(a) a list of organisations approved by the competent authorities in the Member States as referred to in Article 1 (1), point (c);

(b) the consolidated information regarding the nature and quantities of the various goods admitted free of import duties and VAT pursuant to Article 1;

(c) measures taken to ensure compliance with Articles 78, 79 and 80 of Regulation (EC) No 1186/2009 and with Articles 55, 56 and 57 of Directive 2009/132/EC with regard to the goods falling under the scope of this Decision.

Article 3

Article 1 shall apply to importations made to Austria, Belgium, Bulgaria, Croatia, Czechia, Denmark, Estonia, Finland, Greece, Germany, Hungary, Ireland, Italy, Latvia, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovenia, Spain and Sweden from 1 January 2022 to 30 June 2022.

Article 4

This Decision is addressed to the Kingdom of Belgium, the Republic of Bulgaria, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, Ireland, the Hellenic Republic, the Kingdom of Spain, the Republic of Croatia, the Italian Republic, the Republic of Latvia, the Grand Duchy of Luxembourg, Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Republic of Finland and the Kingdom of Sweden.

It shall apply from 1 January 2022.

Done at Brussels, 22 December 2021.

For the Commission
Paolo GENTILONI
Member of the Commission