



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION
The Director-General

Brussels,
TAXUD/SQ
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**NOTE TO
DIRECTORS GENERAL OF THE MEMBER STATES' AND THE UK'S CUSTOMS AND TAX
ADMINISTRATIONS**

**Subject: Information on Article 76 of Council Regulation (EC) No 1186/2009
and Article 53 of Council Directive 2009/132/EC (possible relief of
VAT and Customs duties)**

In view of the COVID-19 pandemic outbreak and extreme challenges it is causing, the Commission is of the opinion that the exceptional tools available in order to help victims of disasters could be used to face this unprecedented health crisis.

We would therefore like to remind Member States about the following possibilities to ensure that importation of items for persons affected by the Covid-19 pandemic or at risk from or involved in combating the COVID-19 could become free of customs duties and VAT.

Council Regulation (EC) No 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty provides for the possibility to grant duty relief for the “benefit of disaster victims” under conditions laid down in its Articles 74-80. It can be applied to imports by State organisations or other charitable or philanthropic organisations approved by the competent authorities. It requires a decision from the Commission, acting at the request of the Member State(s) concerned.

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 has mirroring provisions (Articles 51- 57).

It should be noted, that pending decision of the Commission's decision, Member States affected by such a disaster may authorise the suspension of customs and VAT applicable to goods (Article 76 second paragraph of Council Regulation (EC) No 1186/2009 and Article 53 second paragraph of Directive 2009/132/EC).

In these cases, Member States should ensure required accountability of those imports.

Taking into consideration current developments in the context of the COVID-19 outbreak and increasing need in particular for healthcare equipment, the Commission has the intention to initiate the necessary legislative steps to enable granting relief on customs duties and VAT applied on imports of protective equipment, other relevant medical devices or equipment in the context of the COVID-19 outbreak, in accordance with the provisions of Council Regulation (EC) No 1186/2009 and Council Directive 2009/132/EC.

We would also like to inform you that the European Parliament has requested the Commission to facilitate the granting of such customs and VAT relief for the goods needed to fight the COVID-19 outbreak.

We hope that all Member States will agree with the proposed way forward.

One Member State, Italy, has requested the Commission to initiate such a decision.

Should other Member States consider to be in the same situation as Italy, the Commission would be ready to include them in its first Decision, provided that the requesting Member State inform the Commission before **Wednesday 25 March 2020, 12h00**.

The requests should be sent to one or both of following addresses:

TAXUD-C1-SECTOR-A@ec.europa.eu

TAXUD-UNIT-A4@ec.europa.eu

In addition to the above, we would like also to point out that Articles 57-58 of Council Regulation (EC) No 1186/2009 provide for the suspension of import (customs) duties regarding instruments and apparatus intended for medical research, establishing medical diagnoses or carrying out medical treatment, which are donated either by a charitable or philanthropic organisation or by a private individual to health authorities, hospital departments or medical research institutions approved by the competent authorities of the Member States to receive such devices duty free, or which are purchased by such health authorities, hospitals or medical research institutions entirely using funds provided by a charitable or philanthropic organisation or obtained through voluntary contributions. We recall that Council Directive 2009/132/EC does not provide legal basis for a similar VAT exemption.

(e-signed)
Stephen QUEST

c.c.: Customs attaches,
Taxation attaches,
Mr Buti, Mr O'Connor, Ms Petan (Cabinet Gentiloni)
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