

EN

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Answer given by Mr Hoekstra
on behalf of the European Commission
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Article 148(a) of Council Directive 2006/112/EC (the VAT (value-added tax) Directive)¹ provides that supplies of goods for the fuelling and provisioning of vessels used on the high seas are to be exempt from VAT. The exemption applies only to vessels used for navigation on the high seas and carrying passengers for reward or used for commercial, industrial or fishing activities, as well as to vessels used for rescue or assistance at sea or for inshore fishing, with the exception, in the case of the latter, of ships' provisions.

The Court held that the exemption applies only to the supply of goods to a vessel operator who will use those goods for fuelling and provisioning and cannot be extended to the supply of those goods effected at a previous stage in the commercial chain². Therefore the fact that the exemption is granted only when the goods are invoiced directly to the ship owner or operator does not seem to be in breach of EU Law.

As regards excise duties, Article 13 of Council Directive (EU) 2020/262 allows Member States to exempt excise goods supplied on board a ship during the sea-crossing to a third territory or a third country. Member States must take the measures necessary to prevent any possible evasion, avoidance or abuse. The production, processing, holding and storage of excise goods is covered by Chapter III of this Directive, whereas the movement of excise goods under suspension of excise duty is governed in Chapter IV thereof.

Regarding customs duties, according to the Union Customs Code, no such duties apply to ship supplies, except for cases of non-compliance with the obligations regarding the customs supervision, movement, or exit of the goods out of the customs territory of the EU.

¹ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

² Judgment of 26 June 1990, *Velker International Oil Company Ltd NV*, C-185/89, EU:C:1990:262; paragraph 22; Judgment of 14 September 2006, *Elmeka NE*, Joined cases C-181/04 to C-183/04, EU:C:2006:563, paragraph 25; Judgment of 3 September 2015, *UAB "Fast Bunkering Klaipėda"*, C-526/13, EU:C:2015:536, paragraph 29.