# DECISIONS

## COUNCIL IMPLEMENTING DECISION

**of 10 February 2012**

**authorising Spain and France to introduce a special measure derogating from Article 5 of Directive 2006/112/EC on the common system of value added tax**

(2012/85/EU)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax [1], and in particular Article 395(1) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) By letters registered with the Commission on 5 September 2011 and 13 September 2011 respectively, Spain and France requested authorisation to introduce a special measure derogating from the provisions of Directive 2006/112/EC in relation to the construction of an underground electricity interconnection between their respective electricity networks.

(2) The Commission informed the other Member States by letters dated 25 October 2011 of the requests made by Spain and France. By letters dated 27 October 2011, the Commission notified Spain and France that it had all the information necessary to consider the requests.

(3) On 27 June 2008 an agreement was signed between Spain and France for the construction of an underground electricity interconnection between Santa Llogaia in Spain and Baixas in France.

(4) Through the special measure, the underground electricity interconnection is to be treated as being situated 50 % in Spain and 50 % in France for the purposes of supplies of goods and services, intra-Community acquisition of goods and importations of goods intended for its construction.

(5) In the absence of such measure, it would be necessary, according to the principle of territoriality, to ascertain for each supply whether the place of taxation was within Spain or France.

(6) The purpose of the special measure is therefore to simplify the procedure for collecting value added tax on the construction of the underground electricity interconnection.

(7) The derogation could affect the overall amount of the tax revenue of the Member States collected at the stage of final consumption only to a negligible extent and has no negative impact on the Union's own resources accruing from valued added tax,

HAS ADOPTED THIS DECISION:

*Article 1*

By way of derogation from Article 5 of Directive 2006/112/EC, Spain and France are authorised to consider the underground electricity interconnection between Santa Llogaia in Spain and Baixas in France as being situated 50 % on the territory of Spain and 50 % on the territory of France for the purposes of supplies of goods and services, intra-Community acquisitions of goods and importations of goods intended for its construction.

*Article 2*

This Decision shall take effect on the day of its notification.

*Article 3*

This Decision is addressed to the Kingdom of Spain and the French Republic.

Done at Brussels, 10 February 2012.

*For the Council*
*The President*
C. ANTORINI

[1] OJ L 347, 11.12.2006, p. 1.